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OF THE

SENATE OF THE UNITED STATES

FOR THE

THIRD SESSION OF THE FORTY-SECOND CONGRESS.

1872-'73.

AND SPECIAL SESSION.

IN THREE VOLUMES.

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I N D E X

TO THE

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No. 233 to 523, inclusive ; also, No. 1, special session.

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FOR THE

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THE

REPORT

OF THE

COMMISSIONERS OF THE

LAND OFFICE

FOR THE YEAR

1872

IN

ANSWER TO A

RESOLUTION

PASSED BY THE

HOUSE OF REPRESENTATIVES

ON

APRIL 10, 1872

AND

PRINTED BY

THE

GOVERNMENT

PRINTING

OFFICE

WASHINGTON

1872

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IN THE SENATE OF THE UNITED STATES.

DECEMBER 12, 1872.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 1207.]

The Committee on Pensions, to whom was referred bill H. R. 1207, giving an increase of pension to Warren Raymond, a soldier of the war of 1812, submit the following report :

The facts in this case, briefly stated, are as follows: On the 5th of August, 1854, a private act was passed by Congress directing the Secretary of the Interior to place the name of Warren Raymond, of the State of New York, upon the roll of invalid pensioners, at the rate of four dollars per month, to commence on the first day of January, 1853, and to continue during his natural life. (See U. S. Stat. at L., p. 826, chap 261.)

Then came the act relating to pensions approved July 27, 1868, (15 U. S. Stat. at L., chap. 264,) by the 15th section of which it was provided that, in all cases, pensions before that time granted by special acts of Congress should be subject to be varied in amount according to the provisions and limitations of the pension laws.

On the 4th of October, 1869, Mr. Raymond was informed by the Commissioner of Pensions that his pension had been increased on the 30th of July, that year, and a new certificate issued to him.

Then followed the act of Congress of July 7, 1870, construing the acts of July 25, 1866, and July 27, 1868, and declaring that neither of these acts should be so construed as to increase the amount directed to be paid in any special act of Congress granting a pension. On the 21st of April, 1870, the Commissioner informed Mr. Raymond, in reply to the latter's letter, that although his rate had been increased to \$8 under the general law, yet as his rate was definitely fixed under the special act above quoted at \$4, it became necessary, under the act of July 7, 1870, to reduce the rate, and that his only recourse under the circumstances was to Congress. Then followed his application to Congress, resulting in the passage of the bill under consideration by the House of Representatives.

Mr. Raymond confesses that he served but fifty-seven days in the war of 1812, and hence, were he to relinquish his present pension, he could take nothing under the law of February 14, 1871, having neither served sixty days, nor having been personally named in any resolution of Congress for any specific service in that war.

The committee recommend the passage of the bill, with an amendment giving the soldier a pension at the rate of \$8 per month from the passage of the act; first, because Congress many years since recognized his claim to a pension, long before the general law in behalf of the soldiers in the war of 1812 was passed; and because his disability, then one-half, has been increased to a full disability. Second, because, if entitled to a pension, no discrimination should be made between him and the beneficiaries under the general law.

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IN THE SENATE OF THE UNITED STATES.

DECEMBER 12, 1872.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 2443.]

The Committee on Pensions, to whom was referred bill H. R. 2443, granting a pension to Wesley Hensley, submit the following report:

The claimant was enlisted as a private in the First Regiment Tennessee Cavalry, by Colonel Geo. W. Kirk, in September, 1863, and sworn into the service. On their way to the Union lines, Hensley and other recruits were attacked by a force of rebels, and in the engagement he was wounded by a ball passing through both hip-joints, in consequence of which he has never been able to walk since, but is, and has been for several years, bed-fast, and has spent all his means in hiring attendants, and been thrown as a pauper upon the county. This is the tale as told by Colonel Kirk, and by John Shelton and Alexander Shelton, all of Madison County, North Carolina, where Hensley lived when recruited; and it is confirmed by the certificates of A. G. Tweed, the sheriff of the county, and J. J. Gudger, clerk of the superior court of that county, the latter, however, certifying only to the fact that Hensley is enrolled on the pauper list.

The committee are of opinion that this is a meritorious case, and recommend the passage of the bill without amendment.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 12, 1872.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

(To accompany bill H. R. 855.)

The Committee on Pensions, to whom was referred bill H. R. 855, granting a pension to John S. Corlett, submit the following report :

Corlett is a native of the Isle of Man, but was admitted a citizen of the United States in 1859. On the 29th of April, 1862, he was hired as teamster by G. E. D. Diamond, chief Government agent at Saint Louis, and was sworn into the Government service for six months, and taken by Diamond to Rolla. In company with Thomas Hawthorn, who was wagon-master under Captain Carr, assistant quartermaster of commissary stores, he joined a commissary train attached to the army of General Curtis, then in the State of Kansas. Early in July, 1862, while acting as teamster, and in the line of his duty driving a wagon of the train, he was severely injured in his leg, in this wise: He was riding one of the mules; they took fright and ran down a hill and up a bank on the side of the road, throwing him from his seat to the ground between the tongue and mules. He was rescued from his perilous condition by Mr. Hawthorn, who graphically describes the accident; but his leg was badly crushed and lacerated. This occurred on the movement of the train from Batesville, Arkansas, to Helena. Still, he was able to continue in the service, doing duty as teamster until October, 1862, when he returned to Saint Louis. At first he walked with a cane; then he took to crutches; finally he was admitted to the city hospital, and his wound treated without success. The records of this institution show that "John Corlett, age 28—nativity, the Isle of Man, was admitted on the 29th day of July, 1863, suffering from caries of tarsus, and was sent to quarantine hospital on the 14th of March, 1864." Corlett himself swears that his right leg was amputated about five inches above the ankle on the 12th December, 1863, by Dr. Charles A. Pope, who died in Paris, France, in the year 1870. It sufficiently appears from the testimony that the leg was amputated, and in consequence of the original injury. It is not clear that proper medical treatment was had while Corlett was in Arkansas. He himself says that he continued with the train until he reached Helena, when he procured from the post hospital some ointment or lotion to apply to his leg, which had continued to trouble him since the injury. If he applied to a surgeon for advice or treatment before his return to Saint Louis, in October, more than three months after the injury, the fact does not appear either in his memorial or evidence. There is nothing in the case that forbids the conclusion

that amputation might have been avoided, had he put himself under medical treatment in season.

The fact remains, however, that he has lost a leg, and that the loss resulted from the original injury, and the question presented is, shall his case be taken out of the operation of the general law? He has not made application for a pension at the Pension Bureau. He admits in his memorial that he comes to Congress because he has no relief under the existing laws. He supposes the facts in his case entitle it to be engrafted an exception upon the general rule, and his argument is that all just such cases as his deserve recognition by Congress. If he does not say so in so many words, that is the logic of his claim.

Teamsters are civilians, and the line between them and soldiers is not faint. The one take their lives in their hands, enter the service to shoot and be shot at. Death is contemplated as a probable incident to the service, and yet the soldier stipulated to take this risk for \$13 a month and a pension to his widow if he fell. The teamster was under no obligation to fight. Ordinarily the service was not hazardous. His compensation was better than that of the private soldier. He made his own bargain, whether he would serve the Government at all, and, if so, for how long a time. Congress never stipulated in his favor to pension him or his widow. He engaged as teamster under no such inducement. It was a fair bargain of his services for money.

Nor was the injury from which he has been deprived of a limb received in action. The enemy did not inflict it or cause it. It was a pure casualty while he was managing his team. For the sake of the argument, we admit it to be a casualty without fault or negligence on his part. Further, we admit, for the sake of the argument, that no skillful appliances would have saved the limb from amputation. Still, we say if Mr. Corlett, a civilian, laboring for wages, is entitled to be placed on the pension-roll, then every civilian connected with the army's movements who has suffered a casualty which moves our sympathies like the case of Mr. Corlett, must be provided for. We cannot make flesh of one case and fish of another. We must extend like relief to every man who appeals to Congress who can present a case of hardship like this. This case will be a precedent. It will be a shining monument of the liberality of Congress which will attract the eyes, we doubt not, of hundreds, perhaps thousands, who now languish in silence because a well-matured general law designed to embrace all cases proper to be pensioned, affords them no relief. Shall we at this late day innovate upon this general rule in the face of the fact that our pension-list already requires appropriations year by year of thirty millions of dollars?

The committee, while conceding everything in the way of good character and habits claimed for this man and so well established, and while putting his case for the argument above any cavil as to the quality of his proofs, and dismissing any doubts as to whether his neglect of the injury did not occasion the necessity of amputation, are constrained to recommend that the bill for his relief be indefinitely postponed. This must and should be so, unless Congress is prepared to amend the general law, and admit not only teamsters, but other classes not now embraced, to all the benefits of the pension laws. Why should we stop with teamsters? Connected with the army, and, in their respective spheres of action, just as necessary as teamsters, are hospital stewards, matrons, nurses, artificers, blacksmiths, carriage-makers, armorers, wagoners, farriers, saddlers, &c. Why should we not, on the same plea urged here, provide for every one of these classes disabled when performing

service for the United States? The principle, it will be seen, would be too broad to assert that men not regularly enlisted in the army, but performing service for the United States for wages, should be preferred to other citizens, simply because the Government is the employer. Some respect must be maintained for the distinction between combatants and non-combatants, between those whose engagement is to fight and those whose employment is to perform work not necessarily hazardous. Had Mr. Corlett been an enlisted private, employed or detailed to do service as a teamster, he would have been within the purview of this law. See section 10, act of June 6, 1866. Because he was not such an enlisted private, and because in point of the services performed he stands no higher or better than the other classes of laborers just enumerated, we think Congress should not establish a mischievous precedent by passing this bill.

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IN THE SENATE OF THE UNITED STATES.

DECEMBER 12, 1872.—Ordered to be printed.

Mr. PRATT submitted the following

R E P O R T :

[To accompany bill H. R. 2444.]

The Committee on Pensions, to whom was referred bill H. R. 2444, granting a pension to Mrs. Margaret S. Fair, submit the following report :

The memorial to Congress of Mrs. Fair shows that her husband, William C. Fair, was in the convention of Georgia which passed the ordinance of secession, but that he opposed the measure, and voted against it, and upon all occasions was a firm, outspoken Union man. He had applied for and obtained authority to organize a regiment of mounted infantry to protect the loyal people of Upper Georgia and East Tennessee, and was in the act of removing his family within the Federal lines, the better to enable him to devote his services to the country, when he was arrested on the 6th day of April, 1864, at Ducktown, in Tennessee, by a band of confederate guerrillas, and murdered. He left surviving him a minor daughter, whose age is not stated.

Sundry citizens of Georgia and Tennessee append a certificate to her memorial, testifying to its correctness, and recommend the grant of a pension to the widow. Among the signers are several officers of the Eleventh Tennessee Cavalry, members of the legislature of Georgia, ministers of the gospel, county officers, and postmasters.

One gentleman, who was a late captain in the Tenth Regiment Tennessee Cavalry, makes an affidavit to the loyalty of Mr. Fair, and to having received reliable information that he went to Cleveland, Tennessee, clothed with proper authority to raise a regiment of troops for the United States service, and to his being captured by a band of rebels, and murdered while in that service. This is the only affidavit among the papers.

A letter from the Pension Bureau shows that there was on file with the papers in the case a certificate of D. S. Stanley, now colonel in the Twenty second United States, formerly general of volunteers, dated December 13, 1870, showing that he (Stanley) gave Fair authority to raise a regiment in the spring of 1864; that this authority was ratified at department headquarters, and that he afterward learned of the murder of Fair.

This is the whole of the case as made by the papers. Neither the memorial nor the certificate appended is sworn to.

Taking the facts as true, however, is this a case where a pension at the rate of \$30 a month should be granted to the widow?

It does not appear that Mr. Fair had ever been mustered into the service of the United States. He had not received a commission as colonel, so far as the papers show. He was in the act of qualifying himself to be so commissioned. A newspaper article, to which we are referred, asserts that the commission had been made out. If he had recruited a man under the authority given him, the evidence does not show the fact.

The pension laws have drawn the line as it should be, in limiting pensions to such as have been enlisted in the service of the United States. When we cross that line we are at sea, without compass or guide. Every case of hardship relieved constitute a precedent and rule for like legislation.

The committee feel unwilling to introduce a new rule by making this case an exception, and accordingly recommend that the bill be indefinitely postponed.

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IN THE SENATE OF THE UNITED STATES.

DECEMBER 12, 1872.—Ordered to be printed.

Mr. SAULSBURY submitted the following

REPORT:

[To accompany bill H. R. 2426.]

The Committee to whom was referred House bill 2426, granting a pension to Mary A. Diamond, mother of Thomas Diamond, late a private in Fourteenth United States Infantry, report:

It appears, from the evidence and papers accompanying this bill, that Thomas Diamond was the son of Mary A. Diamond, and a soldier in the service of the United States Army, and died while in said service, and in the line of his duty; that his father, the husband of claimant, was also a soldier, and was disabled in the service, and granted a pension; that, after the disability of the father, the son assisted in the maintenance of the mother, to some extent. If the father was not now drawing a pension, the right of the mother to one, on account of the loss of her son, would probably have been recognized by the Department; the grounds stated for the rejection of her application being that her husband was receiving a pension for injuries received while in the service; and on appeal, this decision was affirmed by the Secretary of the Interior. The committee, under the facts of this case, do not feel at liberty to recommend the passage of the bill, as the claimant was not dependent on her son prior to the disability of her husband, and only partially so at any time since.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 12, 1872.—Ordered to be printed.

Mr. SAULSBURY submitted the following

REPORT :

[To accompany bill H. R. 2436.]

The petition of Mollie L. Roberts sets forth that she is the widow of John S. Roberts, late first lieutenant Twenty-second Regiment Indiana Volunteers; that her husband was granted a pension of \$8.50 per month; that he died November 22, 1869, leaving, besides his widow, two children, John S. Roberts, aged four and one-half years, and Mary Roberts, aged sixteen months; that she was married February 29, 1864, to her said husband, and since his death has remained a widow. Affidavits of Joan Socwell and Henry A. Donway prove her signature to the petition, and they believe her to be the person she represents herself to be.

W. H. Ackmon, attorney for petitioner, states in writing that First Lieutenant John S. Roberts, in consequence of wounds and injuries and impaired health, received a pension certificate in the month of November, 1869, while in his last sickness; that his widow applied for a pension, and furnished evidence of marriage, and certificate of physician as to cause of death. Pneumonia was the immediate cause, superinduced by condition of impaired constitution from military service, rendering him more liable to disease. Claim was rejected by Department, hence her application to Congress.

From the papers accompanying the bill, it appears that Mollie L. Roberts is the widow of John S. Roberts, who was mustered into the service August 15, 1861, and honorably discharged in August, 1864. While in the service, he was injured, but not disabled, and continued with his company for about one month, without medical assistance. After that time he became unable to do service, and was honorably discharged in August, 1864. He returned home, and died in November, 1869. The Department did not think there was evidence that death resulted from injuries received in the service, and rejected widow's claim.

The proof does not satisfy the committee that a pension ought to be granted in this case, and they report the bill back to the Senate adversely.

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IN THE SENATE OF THE UNITED STATES.

DECEMBER 12, 1872.—Ordered to be printed.

Mr. SAULSBURY submitted the following

REPORT:

[To accompany bill H. R. 2435.]

The proof satisfies the committee that Ann C. Butler is the mother of Charles F. Butler, private in Company F, Forty-ninth Pennsylvania Volunteers; that said Charles F. Butler died June, 1862, while in the service; that he contributed to the support of his mother; that he was unmarried and left no children.

While the proof in reference to the nature of his disease, alleged to be typhoid, is not conclusive, the fact of his death while in the service is clearly established. The application was rejected by the Department for defect of proof on this point, and because not prosecuted to a successful issue within the time limited by law. The claim seems to be entitled to the favorable consideration of the committee, and they report the bill back with a recommendation that it do pass.

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THE STATE OF NEW YORK

IN SENATE

JANUARY 1870

REPORT

OF THE

The report of the Board of Regents of the University of the State of New York, for the year ending June 30, 1869, is presented to the Senate. The report contains a full and complete statement of the affairs of the Board, and of the progress of the University during the year. It also contains a list of the names of the members of the Board, and of the names of the students of the University. The report is a valuable document, and it is hoped that it will be of interest to the Senate.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 13, 1872.—Ordered to be printed.

Mr. PRATT, from the Committee on Pensions, submitted the following

R E P O R T :

The Committee on Pensions, to whom was referred the petition of Winslow J. Fries, praying to be allowed a pension, submit the following report:

It appears from the rolls on file in the Adjutant General's office, that Mr. Fries was enrolled on the 30th day of March, 1865, in Company B, Second Regiment, United States Veteran Infantry, to serve one year, and was mustered into service as a corporal, on 15th April in the same year, at Trenton, New Jersey, in the same company and regiment. On the muster-roll of that company, for the months of May and June in that year, he is reported present; no remarks. The muster-out roll of the company, dated Hall's Hill, Virginia, July 11, 1865, reports him mustered out on that day. The rolls do not show any evidence of disability.

In his petition, Mr. Fries alleges that in the month of May, 1865, while in the line of duty with his command, he became ruptured in the right side. That the war being at a close, and expecting to be mustered out, he did not think it advisable to become an inmate of a hospital, and did not come under the treatment of the regimental physician.

It appears that Mr. Fries applied in the usual way for a pension, on the 8th of June, 1869, in which application he stated that about the middle of May, 1865, on the advance from Richmond to Fredericksburgh, when marching up a heavy hill, heavily laden with his knapsack, ammunition, &c., he strained himself in the right side and became ruptured, giving the same reasons as above for not reporting his case to the surgeon of his regiment.

He made his proofs and submitted his case. His application was rejected by the Commissioner. He applied for a re-instatement of his case, and it was re-examined, with the same result, after the testimony had been referred to the medical referee of the Bureau.

From the decision of the Commissioner he appeals to Congress, and asks that it may be reviewed upon the same evidence submitted to the Commissioner.

The committee have carefully looked over the testimony, and see no reason for reversing the decision.

While his case was in the Pension-Office he was called upon to furnish the affidavit of some one of the medical officers of his regiment, to show that his disability occurred while in the service. His reply was he could not, as his case never came under their treatment, and as he never even made report of his disability to them.

Again, on the 11th of March, 1870, he makes affidavit, seemingly in response to a further call for information, that he was unable to furnish any medical testimony regarding his disability from the time of his discharge until that date, as he had not employed any medical assistance for the same.

His testimony to that date consisted of the joint affidavit of two unprofessional witnesses (Hepperlen and Iseller) that they had known Fries ever since his discharge, and that he had been during the whole period afflicted with rupture in the right side. They say they were cognizant of this from personal knowledge, and were very intimately acquainted with the petitioner. One Johnson, a second lieutenant of the company, also swears that Fries strained himself and was ruptured in the right side while marching up a steep hill heavily laden, &c.

Later than this, in January, 1871, and, as the committee infer, while the case was being reconsidered, the applicant put on file the affidavits of Newell, Grivner, and Shaw. Newell, who describes himself as a graduate of a medical college in 1859, says that he knew this soldier for about two years just preceding his enlistment, and that he was a sound and healthy young man, of correct habits, and he never knew him to be afflicted with anything like a rupture.

Grivner and Shaw, though making separate affidavits, testify, in language identical, that the petitioner, "while marching up a hill, heavily laden with knapsack, ammunition, &c.," strained himself and was ruptured in the right side. In language identical they say they are cognizant of these facts from personal knowledge, having been members of the same company with the claimant, and his tent-mates at the time these facts came to their notice.

Three examining surgeons of the city of Philadelphia certified, on the 14th of February, 1870, that Fries was one-fourth incapacitated from obtaining his subsistence by manual labor, in consequence of right inguinal hernia; that the disability was permanent, and that the applicant contracted it at or near Fredericksburgh, Virginia, while on the march; and add, "Hernia is easily kept in place by truss."

The committee are not cognizant of any law charging examining surgeons with the duty of ascertaining and determining when, where, and how a particular disability, the subject of their examination, occurred. They, therefore, attach no importance to this part of the certificate, as these gentlemen probably certified to the origin of the disability from the statement of the applicant himself. They were clothed with no power to examine witnesses, and as they do not pretend to have been present on the march up the "steep hill," and to having been eye-witnesses to the rupture in consequence of the unusual burden of "a knapsack, ammunition, &c.," the committee conclude that what they volunteer to say on this head is the offspring of mere hearsay.

The case then stands thus: This rupture should have occurred on May 15, 1865. The claimant made no complaint up to his muster-out, on the 11th of the following July. There were a surgeon and his assistants connected with the regiment, who would have cared for his case without expense; but neither in the regiment nor outside does he apply for medical advice for four years. If disabled in the service of his country he must have known it, and yet he makes no application for a pension until the 8th day of June, 1869, nor does he furnish any excuse for the delay. Up to this date not a single medical man had examined his case.

The statement itself is remarkable as to the cause of the rupture. He is marching with his company up a steep hill—a heavy hill, as he

describes it. He and all his witnesses, with an identity of description that looks a little suspicious, speak of his heavy burden as his "knapsack, ammunition, &c." What the "&c." means, the committee are not informed. If it were anything essential as a burden, the presumption is it would be specified. If he was laden otherwise than his fellow-soldiers, we do not know the fact. That his *strain*, if strain there were, was not serious, we must infer, from the significant fact that he did not think it worth while to consult any medical man about it for four years.

It would naturally be supposed that his witnesses would tell their story in their own way; but no; there is a uniform formula—scarce a hair-breadth's variation—in their accounts of the mode and manner of the injury, and how they came to know it.

It may be, and probably is, the fact that this remarkable coincidence of knowledge, and the mode of stating it, is due, in some measure, to the gentleman who wrote the petition and nearly all of the affidavits, and who furnished but one vehicle for the witnesses and the claimant himself to ride in. The committee can but think a cross-examination of some of these witnesses would have elicited not only variety of language but variety of knowledge. It would be interesting to know whether these gentlemen ever saw the rupture, and when for the first time; how they came to know that it occurred on a particular day, and while marching up a hill; and whether the burden borne by Fries was heavier than before, or heavier than other soldiers bore; and when the knowledge of the injury came to them. But we have no power to cross-examine. We must decide the case upon the *ex parte* statements of witnesses of whose credibility we have no means of judging. Seeing this is so, it is not a rigorous ruling that the claimant should make a case that should leave no reasonable doubt of the duty of the Government to pay him. We do not think this such a case, and recommend that the petition be disallowed.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 16, 1872.—Ordered to be printed.

Mr. POMEROY submitted the following

R E P O R T :

[To accompany bill S. 1257.]

The Committee on Public Lands, to whom was referred Senate bill No. 1213, "For the relief of settlers on the Cherokee neutral lands in Kansas," submit the following report :

On the 28th day of May, 1830, Congress passed "An act to provide for an *exchange* of lands with the Indians residing in any of the States or Territories, and for their removal west of the river Mississippi."

SECTION 1. *Be it enacted, &c.,* That it shall and may be lawful for the President of the United States to cause as much of any territory belonging to the United States west of the river Mississippi, not included in any State or organized Territory, and to which the Indian title has been extinguished, as he may judge necessary, to be divided into a suitable number of districts, for the reception of such tribes or nations of Indians as may choose to exchange the lands where they now reside, and remove there; and to cause each of said districts to be so described by natural or artificial marks as to be easily distinguished from every other.

Section 3 is as follows :

And be it further enacted, That in the making of any such exchange or exchanges, it shall and may be lawful for the President solemnly to assure the tribe or nation with which the exchange is made, that the United States will forever secure and guarantee to them, and their heirs or successors, the country so exchanged with them; and if they prefer it, that the United States will cause a patent or grant to be made and executed to them for the same: *Provided always,* That such lands shall revert to the United States if the Indians become extinct or abandon the same.

On the 29th day of December, 1835, the United States and the Cherokee Nation made a treaty.

Among other lands conveyed to the Cherokees by that treaty was what has since that time been known as the "*Cherokee neutral land.*"

Article 3 of that treaty is in these words :

The United States also agree that the lands above ceded by the treaty of February 14, 1833, including the outlet and those ceded by this treaty, shall all be *included in one patent executed to the Cherokee Nation of Indians by the President of the United States, according to the provisions of the act of May 28, 1830.* (U. S. Statutes, vol. 7, p. 478.)

On the 31st day of December, 1838, a patent was issued to the Cherokees under the above treaty and law, the granting clause of which is in the following words :

Therefore, in] execution of the agreements and stipulations contained in the said several treaties, the United States have given and granted, and by these presents do give and grant, unto the said Cherokee Nation the two tracts of land so surveyed and hereinbefore described, containing in the whole 13,374,135 $\frac{1}{10}$ acres, to have and to hold the same, together with all the rights, privileges, and appurtenances thereunto belonging,

to the said Cherokee Nation forever, subject, however, to the right of the United States to permit other tribes of red men to get salt on the salt-plain on the Western Prairie, referred to in the second article of the treaty of the twenty-ninth of December, one thousand eight hundred and thirty-five, which salt-plain has been ascertained to be within the limits prescribed for the outlet agreed to be granted by said article, and subject also to all the other rights reserved to the United States in and by the articles hereinbefore recited, to the extent and in the manner in which the said rights are so reserved, and subject also to the condition provided by the act of Congress of the 28th of May, 1830, and which condition is, "that the lands hereby granted shall revert to the United States if the said Cherokees become extinct or abandon the same."

Such was the title by which the Cherokee Indians held the body of lands, now in the State of Kansas, known as the Cherokee neutral lands, and containing in round numbers 800,000 acres.

As a part of the history of the occupation of these lands by white settlers, your committee will here quote from "Report No. 12, Forty-first Congress, second session," made by the Hon. J. P. C. Shanks, from the Committee on Indian Affairs of the House of Representatives, to the House:

Before the war a number of white families settled on this tract, and your committee cannot learn that any objection was made to their settlement, either by the Government or the Indians, until November 29, 1859. These settlers paid taxes and voted as early as 1859, and continually since. In October, 1860, one Cowan, a pro-slavery secessionist, acting in the interests of the rebellion, then agent for the Cherokees, came upon the tract, sustained by a company of United States troops, under command of Captain Sturges, of the United States Army. Your committee learn that fourteen cabins were burned, and at that stage of the affair an arrangement was made between the people and the military by which further ejection of settlers was stayed. It appears that the settlers sent a committee of two, accompanied by two other persons, to see President Buchanan, and that the President and Secretary of the Interior told the committee to go home and say to the settlers to stay on their claims, and they should never be moved from them; and that the Secretary of the Interior, Jacob Thompson, assured them he never had ordered them to be removed from those lands, and that they never would be ordered to leave them.

The interference of the military at that time was in the interest of slavery in that particular locality, and had no other significance or purpose. During the rebellion most of the settlers on these lands were compelled to temporarily abandon their homes; many entered the United States Army, leaving their families at Fort Scott and other places of security, and those who survived, and the families of those who did not survive, returned again at the close of the war. A great many soldiers and others have settled on these lands since the war.

It is declared by the settlers on this land that in March, 1866, President Johnson wrote to them to "go on and settle it up," and assured them of protection under the pre-emption laws of the United States. Letters of similar purport were sent them by others in official station at Washington.

It appears from the records of the Indian Office, and from the statement of citizens, that white settlers were encouraged to occupy these lands by the Indians themselves. As early as August 11, 1866, it appears that the recognized actual settlers on the neutral lands, being heads of families, numbered one thousand and thirty-one.

Your committee find that on the 7th day of October, 1861, a "treaty of friendship and alliance was concluded between the Confederate States and the Cherokee Nation of Indians," and that that treaty was authorized by a "general convention of the Cherokee people."

In which "treaty" may be found the following:

ART. 47. Whereas, by the treaty of the 29th day of December, A. D. 1835, the United States of America, in consideration of the sum of \$500,000, part of the sum of \$5,000,000 agreed by that treaty to be paid to the Cherokee Nation for the cession of their lands and possessions east of the Mississippi River, did covenant and agree to convey to the Cherokees and their descendants, by patent in fee-simple, the certain tract of land between the State of Missouri and the Osage reservation, the boundary-line whereof it was provided should begin at the southeast corner of said Osage reservation and run north along the east line of the Osage lands fifty miles to the northeast corner thereof; thence east to the west line of the State of Missouri; thence with that line south fifty miles; and thence west to the place of beginning; which tract of country was estimated to contain eight hundred thousand acres of land; and whereas the same has been seized and settled upon by lawless intruders from the Northern States, and may be

totally lost to the Cherokees: Now, therefore, it is further hereby agreed between the parties to this treaty, that in case the said tract of country should be ultimately lost to the Cherokees by the chances of war, or the terms of a treaty of peace or otherwise, the Confederate States of America do assure and guarantee to the Cherokee Nation the payment therefor of the said sum of \$500,000, with interest thereon, at the rate of five per cent. per annum, from the said 29th day of December, A. D. 1835; and will either procure the payment of the same by the United States, or pay the same out of their own treasury, after the restoration of peace.

ART. 48. At the request of the authorities of the Cherokee Nation, and in consideration of the *unanimity and promptness of their people in responding to the call of the Confederate States for troops*, and of their want of means to engage in any works of public utility and general benefit, or to maintain in successful operation their male and female seminaries of learning, the Confederate States do hereby agree to advance to the said Cherokee Nation, immediately after the ratification of this treaty, on account of the said sum to be paid for the said lands mentioned in the preceding article, the sum of \$150,000, to be paid to the treasurer of the nation, and appropriated in such manner as the legislature may direct; and to hold in their hands, as invested for the benefit of said nation, the further sum of \$50,000, and to pay to the treasurer of said nation interest thereon annually, on the 1st day of July in each year, at the rate of six per cent. per annum.

On the 11th day of August, 1866, another treaty was made between the United States and the Cherokees.

Article 17 of that treaty is as follows, (U. S. Statutes, vol. 14, p. 804:)

The Cherokee Nation hereby cedes, in trust, to the United States, the tract of land in the State of Kansas which was sold to the Cherokees by the United States under the provisions of the second article of the treaty of 1835, and also that strip of land ceded to the nation by the fourth article of said treaty which is included in the State of Kansas; and the Cherokees consent that said lands may be included in the limits and jurisdiction of the said State.

The lands herein ceded shall be surveyed as the public lands of the United States are surveyed, under the direction of the Commissioner of the General Land-Office, and shall be appraised by two disinterested persons, one to be designated by the Cherokee national council, and one by the Secretary of the Interior, and, in case of a disagreement, by a third person, to be mutually selected by the aforesaid appraisers; the appraisement to be not less than an average of one dollar and a quarter per acre, exclusive of improvements.

And the Secretary of the Interior shall, from time to time, as such surveys and appraisements are approved by him, after due advertisements for sealed bids, sell such lands to the highest bidders, for cash, in parcels not exceeding one hundred and sixty acres, and at not less than the appraised value: *Provided*, That whenever there are improvements of the value of fifty dollars made on the lands, not being mineral, and owned and personally occupied by any person for agricultural purposes at the date of the signing hereof, such person so owning, and in person residing on such improvements, shall, after due proof, made under such regulations as the Secretary of the Interior may prescribe, be entitled to buy, at the appraised value, the smallest quantity of land in legal subdivisions, which will include his improvements, not exceeding in the aggregate one hundred and sixty acres; the expenses of survey and appraisement to be paid by the Secretary out of the proceeds of sale of said land: *Provided*, That nothing in this article shall prevent the Secretary of the Interior from selling the whole of said neutral lands in a body to any responsible party, for cash, for a sum not less than eight hundred thousand dollars.

The above was amended as follows:

Amendment 2. Strike out the last proviso in article 17, and insert in lieu thereof the following: "*Provided*, That nothing in this article shall prevent the Secretary of the Interior from selling the whole of said lands not occupied by actual settlers at the date of the ratification of this treaty, not exceeding one hundred and sixty acres to each person entitled to pre-emption under the pre-emption laws of the United States, in a body, to any responsible party, for cash, for a sum not less than one dollar per acre."

On the 30th day of August, 1866, James Harlan, then Secretary of the Interior, sold to the American Emigrant Company—

All that tract of land known as the "Cherokee Neutral Lands," in the State of Kansas, containing (800,000) eight hundred thousand acres, more or less, with the limitations and restrictions set forth in the seventeenth article of a treaty between the United States and said Cherokee Indians, ratified on the 11th day of August, A. D. 1866, as amended by the United States Senate, with all the beneficial interest therein,

at the rate of one dollar per acre in lawful money of the United States, to be paid to the Secretary of the Interior in trust for said Indians, as hereinafter set forth.

On the 4th of October, 1866, Attorney-General Stanbery, in an official opinion, held the sale by Harlan to the Emigrant Company to be "null and void," and soon thereafter O. H. Browning, then Secretary of the Interior, set aside that sale, and on the 9th day of the same month sold the same lands to "James F. Joy, of the city of Detroit, Michigan."

This sale by Browning to Joy was ratified in a supplemental treaty between the United States and the Cherokees, which was proclaimed on the 10th day of June, 1868.

For reasons unknown to your committee, this supplemental treaty is not to be found upon the pages of the Statutes of the United States.

Your committee have already spoken of the encouragement given to settlers to locate upon these lands, by Presidents Buchanan and Johnson, by members of Congress, and also by the Indians. It is worthy of notice that the assuring words of President Buchanan to the committee of settlers who visited him in October, 1860, were spoken nearly six years before the cession of these lands to the United States, and that the letter of President Johnson was written *after* the treaty of cession of August 11, 1866, and *before* the supplemental treaty of June 10, 1868; and that the additional assurance of the then Secretary of the Interior, Jacob Thompson, was to the same men, and at the same time with that of Buchanan.

These assurances would very naturally have great weight with the settlers.

From time to time about 4,500 claimants have located upon these lands—allowing the usual average of five to the family, a population of 25,000.

Your committee have no reason to believe that these people differ in character from other bands of settlers in other new parts of our country. Probably they are neither better nor worse, save, possibly, in the one fact that more than three-fourths of them were Union soldiers.

The peculiar circumstances of the locality, and of the times, have caused their settlement of that country to be attended with far more than the ordinary share of hardship, loss, and of positive suffering.

The settlers have always asserted their right to title, and since the purchase by Joy have constantly contested his claim.

This they have done on the ground—

1st. That by the patent to the Cherokees, and the treaty of 1835, and the law of 1830, the United States retained the reversionary right of the land.

2d. That this being the property of the United States, could only be disposed of by Congress, and was subject to a disposition by Congress, at any time, which should take effect whenever the Indians should cease to occupy the land.

3d. That Congress had already promised to settlers in their circumstances the benefit of the pre-emption law.

To sustain the first of these propositions they have quoted the law of 1830, the treaty of 1835, and the patent of 1838.

In support of the second they have brought forward the Constitution of the United States, art. 4, sec. 3:

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

The Constitution itself (art. 1, sec. 1) says Congress shall consist of a Senate and House of Representatives.

Decisions of the Supreme Court in the following and other cases:

In *Bagnell et al. vs. 2 Broderick*, 13 Peters, p. 450, (13 C. R., 235,) the Supreme Court said:

Congress has the sole power to declare the effect and dignity of titles emanating from the United States.

In the *United States vs. Fitzgerald*, (15 Peters, p. 421,) the Supreme Court said:

No appropriation of land can be made for any purpose but by authority of Congress.

13 Peters, 498, (13 C. R., 266,) Supreme Court says:

Whether a title to a tract of public lands has passed from the United States is a question depending upon statutes enacted by Congress.

15 Peters, 407, (14 C. R., 128:)

Congress has exclusive power to make and authorize appropriations of the public lands.

14 Peters, 525, the court said:

The power over the public lands is vested in Congress *without limitation*.

And such other authorities as the following:

Clifford, Attorney-General, said, (*Opinions Attorneys-General*, vol. 4, p. 696:)

Congress has the exclusive power, under the Constitution, to dispose of and make all needful rules and regulations respecting the territory and other property belonging to the United States.

Again, page 706:

The power over the public lands is vested by the Constitution *exclusively in Congress*, and the President has no authority over the subject, except what may be inferred from the general power to see that the *laws* are faithfully executed, unless it be conferred upon him by an *act of Congress*; nor can the power, when conferred, be *exercised in any other form or mode of proceeding than that which the law prescribes*. This view is too firmly established by the Constitution, as a primary principle in the distribution of its powers, to need any confirmation, and the proposition is too palpable to require any illustration to enforce it.

In the case of *Maison-Rouge grant*, (*Op.*, vol. 3, page 737,) Mr. Legare, Attorney-General, Congress having refused to confirm certain claims guaranteed by treaty with France, said:

The legislature, for reasons satisfactory to itself, and according to principles which I had the honor to develop more fully in a recent communication to you on the subject of the Missouri land-titles, chose to acknowledge those claims only *sub modo* and to a limited extent. *Its will is our law*.

Story (on the Constitution, vol. 1, p. 312) said:

Every power given to Congress is, by the Constitution, necessarily supreme.

Also the action of the House of Representatives in the following cases:

PROCEEDINGS IN THE HOUSE.

June 1, 1868.—By Mr. JULIAN:

Whereas the Indian tribes of the United States have no power by treaty to dispose of their lands, except the power of cession to the United States; and whereas a treaty is now being negotiated between the Great and Little Osage Indians and a special Indian commission acting on the part of the United States, by which 8,000,000 acres of land belonging to those Indians are to be transferred to the Leavenworth, Lawrence, and Galveston Railroad Company, in contravention of the laws and policy of the United States affecting the public domain: Therefore

Resolved, That the President of the United States be requested to inform this House by what authority and for what reason the said lands are to be disposed of as above recited, and not ceded to the United States and made subject to their disposition.

Passed unanimously.

Joint resolution (H. R. 286) relative to the lands of the Cherokee and Great and Little Osage Indians:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, directed to withhold the issuing of patents to the purchasers of lands heretofore sold, or which may hereafter be sold, under and by virtue of the treaty between the United States and the Cherokee Indians, concluded on the nineteenth day of July, in the year eighteen hundred and sixty-six, and the treaty between the United States and the Great and Little Osage Indians, concluded on the twenty-ninth day of September, in the year eighteen hundred and sixty-five, or under any Indian treaty which may hereafter be concluded, until otherwise provided for by law.

Passed the House of Representatives June 3, 1868.

EDWARD MCPHERSON, *Clerk.*

In reference to the same treaty then pending before the Senate Committee on Indian Affairs, June 18, 1868, the following resolution was offered by Mr. Clarke, of Kansas:

Resolved, (as the sense of this House,) That the objects, terms, conditions, and stipulations of the aforesaid pretended treaty are not within the treaty-making power, nor are they authorized either by the Constitution or laws of the United States; and therefore this House does hereby solemnly condemn the same, and does also earnestly but respectfully express the hope and expectation that the Senate will not ratify the said pretended treaty.

Passed unanimously.

June 27, 1868.—By Mr. Julian, resolution denying the right of treaty-making power to dispose of Indian lands. Passed.

[H. R. 335.]

JOINT RESOLUTION for the protection of settlers on the Cherokee neutral lands in Kansas.

Whereas, in the treaty between the United States and the Cherokee Nation of Indians, made July nineteenth, eighteen hundred and sixty-six, proclaimed August eleventh, eighteen hundred and sixty-six, there is a provision purporting to authorize a sale by the Secretary of the Interior of Cherokee neutral lands in Kansas, but which reserves from sale lands having improvements of the value of fifty dollars, not being mineral, and occupied by any person for agricultural purposes, and which gives to occupants the right to purchase one hundred and sixty acres each of said lands, under and by virtue of which about eight hundred families are provided for: and whereas, between August eleventh, eighteen hundred and sixty-six, and June sixth, eighteen hundred and sixty-eight, about two thousand seven hundred additional families have settled on said Cherokee neutral lands, each family occupying one hundred and sixty acres, on which improvements have been made at an average cost of about five hundred and ten dollars, beside expenditures for living of four hundred and fifty dollars for each family, said settlements and improvements being made without objection from any source, and on the faith that the settlers would be protected in the right to acquire title to said lands as other settlers on the public lands; and whereas, on the thirtieth day of August, eighteen hundred and sixty-six, a contract was made by and between James Harlan, Secretary of the Interior, and the American Emigrant Company, for the sale of certain portions of said lands, which contract has been assigned by said company to James F. Joy, said contract and assignment being on file in the Department of the Interior; and whereas a supplementary treaty between the United States and said Cherokee Nation was made April twenty-seventh, eighteen hundred and sixty-eight, ratified June sixth, and proclaimed June tenth, eighteen hundred and sixty-eight, all without any knowledge thereof by any of the persons occupying said lands, and which ratifies said contract with the American Emigrant Company, and the assignment thereof to said Joy, with certain modifications provided in said supplemental treaty, but which makes no provision for the protection of the persons or families who have settled upon and improved said lands, but purports to ratify a sale of said lands, including the improvements thereon: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases where any person, prior to June tenth, eighteen hundred and sixty-eight, shall have settled on any tract of land of one hundred and sixty acres or less, in the body of lands known as the Cherokee neutral lands, and shall have made improvements thereon of the value of fifty dollars, and occupied such tract for agricultural purposes, such person, his heirs or assigns, so occupying any such tract of land, shall, after due proof made in such manner as may be prescribed by the

Secretary of the Interior, be entitled to enter and receive a patent for the lands so occupied, on paying one dollar and twenty-five cents an acre within one year, in such manner as the Secretary of the Interior may prescribe; and the money so to be paid for said lands shall be paid over to said Cherokee Indians.

Passed the House of Representatives July 13, 1868.

Attest:

EDWARD McPHERSON, *Clerk*.

[H. R. 73.]

JOINT RESOLUTION relative to the Cherokee neutral lands in the State of Kansas, and the late treaties respecting the same.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the treaties between the United States and the Cherokee Nation of Indians, proclaimed August eleventh, eighteen hundred and sixty-six, and June tenth, eighteen hundred and sixty-eight, as profess to authorize a sale of the lands described in the seventeenth article of said first-mentioned treaty, and all contracts and grants purporting to be made thereunder, be, and are hereby, annulled and declared void; and said lands shall be, and are hereby, made subject to settlement, entry, and sale at one dollar and twenty-five cents per acre, under the laws of the United States regulating pre-emptions, which laws are hereby extended over and made applicable to said lands; and the proceeds of the sales of said lands shall be from time to time paid over to said nation of Indians, until the sum paid shall be equal to one dollar and twenty-five cents per acre for all said lands; and the Secretary of the Treasury shall refund all moneys paid to the United States under any sale made by virtue of said treaty: *Provided*, That the purchasers of said lands shall pay the fees and expenses of their several purchases from the Government as required of other pre-emptors: *And provided further*, That when bona fide settlers are found on the sixteenth and thirty-sixth sections of said land, the same shall not be reserved for school purposes, but other lands of like amount in said tract, as contiguous thereto as may be, not occupied by settlers, shall be substituted therefor, and designated by the State of Kansas.

Passed the House of Representatives April 5, 1869.

Attest:

EDWARD McPHERSON, *Clerk*.

It will be observed that the first resolution offered by Mr. Julian was "passed unanimously" on the 1st day of June, 1868, six days before the action of the Senate on the supplemental treaty, and nine days before its ratification and proclamation by the President; and that the second, which was an earnest protest against the issuance of patents for the very lands under consideration, was passed by the House on the 3d day of June, 1868, three days before that action by the Senate, and seven days before the *proclamation* of the supplemental treaty.

Your committee would call special attention to the two joint resolutions of the House of Representatives above quoted, and which were passed, the one on the 13th of July, 1868, and the other on the 5th of April, 1869, and both of which declared, as the will and the opinion of the House, that these particular settlers should have titles to their homes from the United States at \$1.25 per acre.

The settlers, and their counsel and friends in Congress, held that the lands in contest had reverted to the United States by the terms of the law of 1830, the treaty of 1835, and the patent of 1838—first, by their making a treaty of alliance with the so-called Confederate States, and actually joining with them in open war against the United States; second, by the attempted sale of this very tract to the so-called Confederate States, and the actual receipt therefor of \$150,000; and, lastly, if not by either or both of the above facts, then by their cession of this tract to the United States by the treaty of August 11, 1866; and that, having reverted to the United States, these lands were open to settlement under existing laws.

Among other authorities they quoted Felix Grundy, Attorney-General, opinion in case of Creek Indians, (*Opinions*, vol. 8, p. 390:)

Nothing more is necessary than to ascertain that the reservee left and removed from the land without an intention of returning and occupying it as his place of residence.

My opinion is, that so soon as a voluntary abandonment and removal from the premises actually took place, from that time the right of the United States accrued and was perfect and complete; and although the register and receiver could not act until they had a knowledge of such abandonment, still the *rights of individuals might well and legally have their origin to different portions of said land, according to then existing laws, or laws which might be passed by Congress.*

Attorney-General Butler (Opinions, vol. 3, p. 230) defines abandonment as "ceasing to have any direct personal connection with the use and enjoyment of the land. No judicial proceedings or actual entry on the part of the United States will be necessary to vest the estate in the United States. Whenever the estate of the Indian reservee shall have determined, the land becomes a part of the public domain. * * * * * *Its liability to entry for floating claims, or for other purposes, will from that time be the same as if it had then for the first time been ceded to the United States.*"

Your committee find that the settlers took advice of eminent lawyers, and that, in January, 1869, Hon. B. F. Butler, Hon. William Lawrence, of Ohio, Hon. George W. Julian and Judge William Johnston, of Ohio, united in a written opinion that the sale of the Cherokee neutral lands to James F. Joy was void in law.

To establish the third proposition the settlers and their attorneys have relied upon the act of Congress of July 22, 1854, to organize the Territories of Kansas and Nebraska, section 12 of which contains these words:

And be it further enacted, That all the lands to which the Indian title has been or shall be extinguished within said Territories of Kansas and Nebraska shall be subject to the operations of the pre-emption act of 4th September, 1841.

Also, upon the act of Congress of June 2, 1862, entitled "*An act to establish a land-office in Colorado, and for other purposes,*" and which contained in the first section these words:

All the lands belonging to the United States, to which the Indian title has been or shall be extinguished, shall be subject to the operation of the pre-emption act of 4th September, 1841.

Your committee find that the view of the latter law taken by the settlers on the Cherokee neutral lands has been twice sustained by the supreme court of the District of Columbia; once, on the 16th of August, 1866, in the case of "Whitney vs. Frisbie," opinion of the court given by Justice Wylie, and again in final judgment of the court in same case, the opinion of the court being given by Chief Justice Cartter, May 27, 1868.

Your committee are fully convinced that these settlers located upon these lands in *good faith*, expecting and intending to get titles from the United States, under the laws of the country.

And further that their settlement upon lands in the condition in which they found the Cherokee neutral lands was a thing neither unusual nor strange, but quite the contrary.

On this point we could perhaps quote no higher authority than the speech of Senator Harlan, May 24, 1870:

But the honorable Senator informed the Senate that with his consent these settlers on these lands should not be permitted to purchase without competition with others one acre of land the possession of which they had acquired by wrong. He thought they were not settlers. "Settlers!" said he; "there is not a settler on these lands. They are robbers; they are trespassers; there can be no settlers until the lands are formally opened under the law for settlement and occupation!" How strangely that must have sounded to honorable Senators representing the new States here. How strangely it must have read when it met the eye of the Delegates from the Territories. How will it be understood by the inhabitants of Oregon and California? The Indian title to the land there has never been extinguished by treaty. Are there no settlers in either of those States? Are those people all land-thieves, marauders, who deserve no consideration by the Senate of the United States? You have no treaties with those Indians. Not an acre of their land has been purchased of them by the Government of the United States. How is it in New Mexico, where there are said to be over one hun-

dred thousand white people residing to-day? Not one acre of land in that Territory has ever been purchased of the Indians by the United States, nor an acre in Arizona, nor, I believe, in Utah, and, I believe, until very recently, not an acre in Colorado, Montana, or Dakota.

Are there no settlers in these great and growing States and Territories? Are they, too, all land-thieves, who deserve no consideration? And yet you have given them consideration. You have organized for them civil governments; you have sent to them, in their territorial condition, governors and judges; you have established courts of justice, and organized or directed them to organize legislative assemblies. In advance of the purchase of the title to a single acre of land from the Indians, you have authorized them to apply for admission as sovereign States of this Union. And yet they are in precisely the same condition to-day as these settlers on the *Osage Indian lands*, who went on in advance of the technical extinguishment of the Indian title. Are they to receive from this time forward no consideration here? Are they to be driven from their homes? Do you propose to put up their farms, their houses, humble though they may be, that shelter them and their families from the inclemency of the seasons, for sale at public outcry? *Sir, you cannot find men bad enough to compete with them for title to their homes.*

The proposition is totally impracticable. If the price, however, proposed in the bill, \$1.25 an acre, is not enough; if you wish to charge these frontier settlers more money for their homes, to punish them for pushing on the car of civilization, amend the bill; strike out \$1.25; put in two dollars, or more; but, in God's name, do not put them at the mercy of land-sharks and speculators, who might be bad enough to be willing to rob the settler of the proceeds of his labor and toil. If they are trespassers, it is in a technical sense merely; morally, they are not. They have done just as their neighbors have done; just as the inhabitants of all the new States have done. They are probably no worse and no better than the average of the people found elsewhere. Ordinarily, as soon as the Indian title is extinguished, the lands are subject to settlement by pre-emptors, in advance of the survey, and you in your wisdom have solemnly enacted laws providing that the citizen who does so under ordinary circumstances shall have the prior right to buy his home at \$1.25 an acre. This is the solemn judgment of the nation proclaimed in its statute-book, read and known of all men. But if there is anything peculiar about these people, if they have committed any unusual oversight, make them pay smart-money in an increased price for their homes; but I would not place them at the mercy of land-speculators.

The proposition of the honorable Senator from Maine is incapable of execution. These people will not submit to competition in the purchase of their homes. Emigrant to the frontier will not compete with them, and outsiders will not be permitted to bid.

Your committee are further of the opinion that the settlers have used due diligence in the prosecution of their cause both before Congress and in the courts; but find that on the 18th day of November last the Supreme Court of the United States rendered a decision in the case of "*Holden vs. Joy*," which declared Joy's title to the lands under consideration to be valid.

After a settlement, beginning in some instances fourteen years ago, made in good faith, attended with much more than ordinary losses and difficulties, and with a contest for title which, your committee would respectfully submit, was begun and continued on very plausible grounds, and in which they were encouraged by such persons, official and otherwise, as they would naturally look to for assurance of final success, these settlers now find, by the decision of the highest judicial tribunal of the nation, that the title to their homes is vested in James F. Joy, and, by transfer made by him, in the Missouri River, Fort Scott and Gulf Railway Company. The case is one of *unprecedented hardship* upon a people whose only fault in the premises has been a *mistake*, under the circumstances quite natural.

Your committee are well aware that no words, nor any act of a President or Presidents, or of any other official, nor yet the action of the House of Representatives alone, could give title to these settlers, or any binding legal guarantee of title; but would most earnestly insist that all these taken together, under the very peculiar circumstances of this case, do constitute a moral guarantee which entitles their appeal to Congress for relief to very grave consideration.

Your committee are of the opinion that the relief asked for in the bill is a proper one, and that the United States should, at least, do nothing less than to afford these people this measure of compensation for loss of their homes on the Cherokee neutral land.

In response to the demand of the people, Congress, by the passage of the homestead law, fixed the reward of the pioneer for making a single settlement at one hundred and sixty acres. These people have already made one. It is not of their own choice that they are compelled to make another. Many children born on these claims on the neutral land are now half grown. Surely if this people is obliged to go again into the wilderness, they ask a reasonable thing when they ask to be allowed to redeem three hundred and twenty acres of that wilderness and make of it a fruitful field, and, in consideration of all the premises, to be allowed a title therefor from the United States.

The committee recommend the passage of a bill for their relief, herewith reported.

S. C. POMEROY.

We concur that the good faith of the settlers on the Cherokee neutral lands is sufficiently shown. We concur, also, in recommending the passage of the bill reported by the committee.

E. CASSERLY.

WM. M. STEWART.

T. W. TIPTON.

T. W. OSBORN.

SUPPLEMENTAL ARTICLE TO THE TREATY OF JULY 19, 1866, BETWEEN THE UNITED STATES OF AMERICA AND THE CHEROKEE NATION OF INDIANS, CONCLUDED APRIL 27, 1868; RATIFICATION ADVISED JUNE 6, 1868; PROCLAIMED JUNE 10, 1868.

ANDREW JOHNSON, PRESIDENT OF THE UNITED STATES OF AMERICA,

To all and singular to whom these presents shall come, greeting:

Whereas to a treaty concluded at the city of Washington, in the District of Columbia, on the nineteenth day of July, in the year of our Lord one thousand eight hundred and sixty-six, between the United States of America and the Cherokee Nation of Indians, through their respective representatives, a supplemental article was made and concluded at the city of Washington, in the District of Columbia, on the twenty-seventh day of April, in the year of our Lord one thousand eight hundred and sixty-eight, by and between Nathaniel G. Taylor, commissioner, on the part of the United States, and Lewis Downing, H. D. Reese, Samuel Smith, Wm. P. Adair, J. P. Davis, Elias C. Boudinot, J. A. Scales, and Arch. Scraper, delegates of the said Cherokee Nation of Indians, on the part of said Indians, and duly authorized thereto by them, which supplemental article of treaty is in the words and figures following, to wit:

Supplemental article to a treaty concluded at Washington City, July 19th, A. D. 1866; ratified with amendments July 27th, A. D. 1866; amendments accepted July 31st, A. D. 1866; and the whole proclaimed August 11th, A. D. 1866, between the United States of America and the Cherokee Nation of Indians.

Whereas, under the provisions of the 17th article of a treaty and amendments thereto made between the United States and the Cherokee Nation of Indians, and proclaimed August 11th, A. D. 1866, a contract was made and entered into by James Harlan, Secretary of the Interior, on behalf of the United States, of the one part, and by the American Emigrant Company, a corporation chartered and existing under the laws of the State of Connecticut, of the other part, dated August 30th, A. D. 1866, for the sale of the so-called "Cherokee neutral lands," in the State of Kansas, containing eight hundred thousand acres, more or less, with the limitations and restrictions set forth in the said 17th article of said treaty as amended, on the terms and conditions therein mentioned, which contract is now on file in the Department of the Interior;

And whereas Orville H. Browning, Secretary of the Interior, regarding said sale as illegal and not in conformity with said treaty and amendments thereto, did, on the ninth day of October, A. D. 1867, for and in behalf of the United States, enter into a

contract with James F. Joy, of the city of Detroit, Michigan, for the sale of the afore-said lands on the terms and conditions in said contract set forth, and which is on file in the Department of the Interior;

And whereas, for the purpose of enabling the Secretary of the Interior, as trustee for the Cherokee Nation of Indians, to collect the proceeds of sales of said lands and invest the same for the benefit of said Indians, and for the purpose of preventing litigation and of harmonizing the conflicting interests of the said American Emigrant Company and of the said James F. Joy, it is the desire of all the parties in interest that the said American Emigrant Company shall assign their said contract and all their right, title, claim, and interest in and to the said "Cherokee neutral lands" to the said James F. Joy, and that the said Joy shall assume and conform to all the obligations of said company under their said contract, as hereinafter modified:

It is therefore agreed, by and between Nathaniel G. Taylor, commissioner on the part of the United States of America, and Lewis Downing, H. D. Reese, Wm. P. Adair, Elias C. Boudinot, J. A. Scales, Archie Scraper, J. Porum Davis, and Samuel Smith, commissioners on the part of the Cherokee Nation of Indians, that an assignment of the contract made and entered into on the 30th day of August, A. D. 1866, by and between James Harlan, Secretary of the Interior, for and in behalf of the United States of America, of the one part, and the American Emigrant Company, a corporation chartered and existing under the laws of the State of Connecticut, of the other part, and now on file in the Department of the Interior, to James F. Joy, of the city of Detroit, Michigan, shall be made; and that said contract, as hereinafter modified, be, and the same is hereby, with the consent of all parties, re-affirmed and declared valid; and that the contract entered into by and between Orville H. Browning, for and in behalf of the United States, of the one part, and James F. Joy, of the city of Detroit, Michigan, of the other part, on the 9th day of October, A. D. 1867, and now on file in the Department of the Interior, shall be relinquished and canceled by the said James F. Joy, or his duly authorized agent or attorney; and the said first contract, as hereinafter modified, and the assignment of the first contract, and the relinquishment of the second contract, are hereby ratified and confirmed, whenever said assignment of the first contract and the relinquishment of the second shall be entered of record in the Department of the Interior, and when the said James F. Joy shall have accepted said assignment and shall have entered into a contract with the Secretary of the Interior to assume and perform all obligations of the said American Emigrant Company under said first-named contract, as hereinafter modified.

The modifications hereinbefore mentioned of said contract are hereby declared to be—

1. That within ten days from the ratification of this supplemental article the sum of seventy-five thousand dollars shall be paid to the Secretary of the Interior as trustee for the Cherokee Nation of Indians.

2. That the other deferred payments specified in said contract shall be paid when they respectively fall due, with interest only from the date of the ratification hereof.

It is further agreed and distinctly understood that, under the conveyance of the "Cherokee neutral lands" to the said American Emigrant Company, "with all beneficial interests therein," as set forth in said contract, the said company and their assignees shall take only the residue of said lands after securing to "actual settlers" the lands to which they are entitled under the provisions of the 17th article and amendments thereto of the said Cherokee treaty of August 11th, 1866; and that the proceeds of the sales of said lands, so occupied at the date of said treaty by "actual settlers," shall inure to the sole benefit of, and be retained by, the Secretary of the Interior as trustee for the said Cherokee Nation of Indians.

In testimony whereof, the said commissioners on the part of the United States and on the part of the Cherokee Nation of Indians have hereunto set their hands and seals, at the city of Washington, this 27th day of April, A. D. 1868.

N. G. TAYLOR,

Commissioner in behalf of the United States.

LEWIS DOWNING,

Chief of Cherokees.

H. D. REESE,

Chairman of Delegation.

SAMUEL SMITH,

WM. P. ADAIR,

J. P. DAVIS,

ELIAS C. BOUDINOT,

J. A. SCALES,

ARCH. SCRAPER,

Cherokee Delegates.

Delegates of the Cherokee Nation.

In presence of—

H. M. WATTERSON.

CHARLES E. MIX.

And whereas the said supplemental article of treaty having been submitted to the Senate of the United States for its constitutional action thereon, the Senate did, on the sixth day of June, one thousand eight hundred and sixty-eight, advise and consent to the ratification of the same, by a resolution in the words and figures following, to wit :

IN EXECUTIVE SESSION, SENATE OF THE UNITED STATES,
June 6, 1868.

Resolved, (two-thirds of the Senators present concurring,) That the Senate advise and consent to the ratification of the supplemental article [concluded April 27, 1868] to a treaty between the United States and the Cherokee Nation of Indians, concluded at Washington City, July 19, 1866; ratified with amendments July 27, 1866; amendments accepted July 31, 1866, and the whole proclaimed August 11, 1866.

Attest :

GEO. C. GORHAM,
Secretary.

Now, therefore, be it known that I, ANDREW JOHNSON, President of the United States of America, do, in pursuance of the advice and consent of the Senate, as expressed in its resolution of the sixth of June, one thousand eight hundred and sixty-eight, accept, ratify, and confirm the said supplemental article of treaty as aforesaid.

In testimony whereof I have hereto signed my name and caused the seal of the United States to be affixed.

Done at the city of Washington, this tenth day of June, in the year of our Lord one thousand eight hundred and sixty-eight, and of the Independence of the [SEAL.] United States of America the ninety-second.

ANDREW JOHNSON.

By the President :

WILLIAM H. SEWARD,
Secretary of State.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 19, 1872.—Ordered to be printed.

Mr. RAMSEY submitted the following

REPORT :

[To accompany bill S. 341.]

*The Committee on Post-Offices and Post-Roads, to whom was recommitted
“A bill to reduce the rates of correspondence by telegraph, and to connect
the telegraph with the postal service,” report :*

That the expediency of uniting the telegraph and postal service has been carefully considered at different times by the Post-Office Department and by committees of Congress.

The late Postmaster-General Randall, in a letter to Congress, recommended it, and the President of the United States and the Postmaster-General have, in each of their last two annual messages and reports to Congress, recommended it earnestly to favorable consideration.

At the last Congress this committee made a report,* in which they said “they had duly considered the expediency of connecting the telegraph with the postal service, and believe the time has come for their union.” In the same Congress a select committee of the House, to whom the subject was referred, submitted two reports,† both urging the necessity of the union, but differing in regard to the mode.

This unanimity of opinion among those who have examined the subject, and are qualified to form an opinion, will not be surprising upon a careful consideration of the question. Telegraphic and ordinary correspondence differ only in the means of transmission, and the same reasons which led the people to intrust the postal service to the Government apply with equal strength to the telegraphic service. America is now the only country where such union of the two services does not exist. The transfer of the lines in Great Britain to the post-office department was made only a few days after the report of this committee to the Forty-first Congress had been presented. Rumors of the failure of the system were immediately circulated far and wide through this country by the same parties that are now predicting the failure of any postal telegraph in this country. It was said “that a total collapse of the provincial system has repeatedly occurred.” “The country journals are forced to go to press morning after morning without telegrams, or with few.” “There probably never was a period when the public were so ill served.”‡ It was therefore thought expedient to defer action on the report until the system had been thoroughly tried there. The postal telegraph has been in operation in Great Britain nearly three years, and has given greater

* 41st Congress, 2d session, Senate Report No. 18.

† 41st Congress, 2d session, House of Representatives Reports Nos. 114 and 115.

‡ New York Daily Tribune, February 28, 1871.

satisfaction than its most sanguine promoters anticipated. The very success of the measure occasioned the complaints that were made. The increase of business was so great that neither wires, instruments, nor operators could be had sufficient to perform the business with dispatch and correctness.

The benefits of the postal telegraph in Great Britain are shown—

1. By the increase of business.

Under the old system about 6,000,000 telegrams a year were transmitted; now 15,000,000.*

Formerly telegraphic news was supplied to 173 newspapers; now to 467. Under the old system the news associations received from 4,000 to 6,000 words a day; now from 15,000 to 20,000.†

2. By the reduction of rates from thirty-eight cents to twenty-six cents, or a little more than thirty per cent.

3. By the increase of facilities.

The number of offices having been raised from 2,907 to 5,098 on December 31, 1871, or over fifty per cent.*

4. By the introduction of "free trade in the collection of news for the press, with low rates for the transmission of such news, no matter by what or how many agencies it might be collected."†

The financial success is assured. The government paid £8,000,000 for the lines, with the necessary repairs and extensions, and borrowed the money at an annual interest of $3\frac{1}{2}$ per cent. According to the report of Mr. Lewes, the secretary of finance, the net receipts for the fiscal year ended March 31, 1872, were £330,000, while for the present fiscal year they are estimated at £351,220.*

Before taking into consideration the expediency of a union of the two services, it will be advisable to examine the existing system, and consider the reasons for making so radical a change.

1. The Western Union Telegraph Company performs nine-tenths of the telegraph business, and fairly represents the telegraph system of the country.

The attention is first attracted to the rates. In order to secure uniformity in the tariff, the country east of the Missouri is divided into six hundred squares, of fifty miles each, and the normal rates are fixed from square to square; but the tariff to places in the same square often varies, while three scales of rates for the different sections of the country have been adopted. In the East 30 cents between offices over twenty-five miles, and under fifty miles apart; in the West 45 cents; and in the South 50 cents for the same distances.‡ The rates are generally but not always lower on competing lines—there are two lines between the great eastern cities and California—but the rates have not been affected by the construction and operation of the competing line. The rates which last year were very low between certain points have been recently raised, as will appear by reference to the annexed table, confirming the remark of Mr. Stevenson, "that where combination is possible, there competition is impossible." An examination of the annexed tables shows great irregularity in the rates; they do not depend entirely upon the distance or expense of transmission, and are frequently higher for short than for long distances. The average rate is 73 cents, and the rates generally are so high that, for long distances and for social correspondence, they are almost prohibitory.

The assertion made by the opponents of the postal system that the

* Report of Mr. Scudamore, 1872.

† Report of Mr. Scudamore, 1871.

‡ Report of Committee of House on Appropriations, 1872.

telegraph is but little used in our country, (only about 12,000,000 of paid telegrams, exclusive of press reports, being annually sent, and that but very few use it,) is undoubtedly true. Yet the receipts of the Western Union Telegraph Company are only 25 per cent. less than the entire revenue or expenditures of the Post-Office Department nine years ago.

Taking advantage of these facts, it is argued that the volume of business does not depend on the rates, and that because the telegraph is little used, therefore there is no need of a reform, which would reduce the tariff low enough to bring the telegraph within the means of the people. But the reduction of postage increased the number of letters by millions, and the same principle applies to the telegraph. In December, 1865, the rates in Belgium were reduced one-half, and the number of messages doubled the next year. In 1867 the rates were reduced in Switzerland in the same proportion, with a like result. In England the rates were reduced, in 1870, 30 per cent., and the number of messages increased 80 per cent. in thirty months. The Western Union Telegraph Company has reduced its rates 35 per cent. in five years, with an increase of 80 per cent. in the business. The annexed tables show that the telegraph is used less here, in proportion to population, than in several of the European countries. If used as freely as in Switzerland, there would be over 30,000,000 messages a year, instead of twelve or thirteen millions. That the business depends on rates, is also shown by the great amount of telegraphed news furnished to the press of our country in consequence of the very low rates.* It has also been contended that the cost of telegraphing increased as rapidly as the business, but the annexed tables show that while the business of the Western Union Telegraph Company nearly doubled, its expenses increased only 30 per cent.; that with a reduction of 35 per cent. in rates, its profits were reduced only 1 per cent. Only about 10 per cent. of the messages here are on social matters, which was formerly the proportion in Belgium and Switzerland, while now between 50 and 60 per cent. are of that character. Here the telegraph is used only as a necessity, there as a convenience.

2. The high cost of the lines as represented by the nominal investment.

The lines of the Western Union Telegraph Company cost about \$340 for each mile of wire. Some statistics of the telegraph in six of the leading telegraphic states of Europe are given in the tables annexed to this report, and from them it will appear that in these countries the average cost per mile is \$83, and that in all Europe it is \$143 a mile. Although we cannot build lines so cheaply, there is no reason for this great difference.

The cost of the lines of this company as represented by its capital was :

In January, 1858	†\$369,700
In January, 1866	†21,355,000
In July, 1869.....	†41,063,100

The capital stock January 1, 1858, was.....	†\$369,700
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Since that time capital stock has been issued for the following purposes:

Stock dividends between 1858 and June 20, 1866.....	†\$18,154,800
Stock for lines prior to June 20, 1866	†6,824,800
Stock to American Telegraph Company, including dividend of \$8,000,000..	†11,833,100
Stock for other lines subsequent to June 20, 1866.....	†3,713,500
Cash	†167,200
	41,063,100

* Report of Western Union Telegraph Company for 1869. See appendix.

† Report on the Western Union Telegraph Company, by E. B. Grant, 1869 pp. 10-12.

Dividends have been declared and profits earned as follows:

Between 1858 and 1866, stock dividends.....	*\$18, 154, 800	
In 1866, stock dividend to American Telegraph Company...	*8, 000, 000	
		\$26, 154, 800
Between 1858 and 1866, cash dividends.....		4, 157, 242
Net earnings from January 7, 1866, to July, 1872.....		17, 166, 694
Total of stock and cash dividends and net earnings.....		47, 478, 736

The largest stock dividend declared was in 1858, amounting to 414 per cent. (Report of Mr. Grant, p. 8.)

In July, 1868, the company adopted a by-law† that neither stock nor bonded debt should be increased excepting by vote of the directors and stockholders, since that period the profits have been expended in extending the lines and purchasing the capital stock. There is nothing to restrain the company from making stock dividends in the future. This very year the bonded debt has been largely increased.

3. The relation of the company to the law.

Its lines extend into every State, and the laws regulating the business differ in each. But, were they alike, it would be difficult, if not impossible, to determine which State had jurisdiction over an offense relating to a message between different States. A uniformity of law is impracticable under the existing system; but without it the business is, to a considerable extent, unrestrained by law.

4. Its connection with the press.

The press depends upon the telegraph for the transmission of news, and the telegraph company upon the press to aid it against attacks. The company regulates the rates, and has the power to raise them for one paper and reduce them for another. In 1869 it raised the rates of the San Francisco Herald 122 per cent., or from 6.92 cents per word to 15.38 cents.‡ This rate the Herald was unable to pay; it lost the news and soon failed.

Press associations have been formed in different sections of the country to collect and sell or exchange news. The New York Associated Press is the principal one, and exerts a controlling interest over the country. They agree by their contract with the Western Union Telegraph Company not to employ any other company to transmit their news, or to sell news to any paper that employs any other company to transmit "any telegraph message which may relate to the news, or to the business of the newspapers." The most influential of the other associations is the Western Press. "In consideration of the favorable terms on which they received" the news, they agreed "that they would not encourage or support any opposition or competing telegraph company."§

The papers connected with the New York Associated Press have united with the telegraph company in opposing every proposition to connect the telegraph with the post-office.

5. The danger which would result if the control of the telegraph should pass into the hands of unscrupulous parties.

The power of inspecting the correspondence of the nation, of affecting the markets of the country, of influencing public opinion and action in any important crisis, is possessed by those who control the telegraph. Although this instrumentality may now be in the hands of honest parties who have neither the intention nor the inclination to use it for political

* Report on the Western Union Telegraph Company, by E. B. Grant, 1869, pp. 10-12.

† Annual report of the Western Union Telegraph Company, July, 1869.

‡ Letter of Henry George to Western Union Telegraph Company, April 21, 1869.

§ See exhibit in appendix.

|| New York Telegrapher.

or speculative purposes, no one can tell how long an instrument of such power will be held as a trust for the benefit of the public, nor how soon combinations between rival lines may place the whole control of the telegraph in the hands of one man, open to his inspection public and private correspondence, enable him to speculate upon the prices of our leading staples in every market of the world, and make him "master of the press, for the press depends upon the telegraph, and enable him, if unscrupulous, to give to the news of the day such a color as he chose, and thus fatally to pollute the very fountain of public opinion."* Such power is too vast to be confided to any private individual. It should be held by the Government under such restraints as would prevent its being wielded to the public detriment.

Two plans have been suggested for remedying the evils of the present system. One copies the European system, and contemplates "the absolute ownership and control of the telegraph lines by the Government,"† and "creates a monopoly of the telegraph in the hands of the Government."‡ It introduces a new feature into the postal service, the construction and operation of lines for the transmission of correspondence by the Post-Office Department.

The principal points of this plan which require consideration are, the probable cost of the lines; the expediency of a low and uniform rate; the method of fixing the press rates, and the power intrusted to the Government.

The right of the United States to take the lines of the various companies under the act of July 20, 1866, at an "appraised value," is undisputed. But a conflict of opinion arises not only as to the probable amount of the appraisal, but also as to the meaning of the words "appraised value." On the one side it is maintained that it means the actual cost of the lines, or, if that cannot be ascertained, such a sum as would be sufficient to duplicate them, which is estimated at \$11,800,000. While, on the other hand, the Western Union Telegraph Company estimated the cost of its lines in 1869 at \$22,412,619, "without taking into account the value of franchise and patents,"‡ and say that since that time large sums have been expended in reconstruction and extensions. They also contend that "the question of cost need not be raised at all, as all its facilities, contracts, and franchises, as well as its poles, wire, and apparatus shall be treated as property, and valued with reference to their united capacity to earn money."§ The committee of the House who examined this question in 1870 varied in their estimate of the appraised value of these lines nearly \$20,000,000. The appraisers must be the judges of all questions of law and fact, and whatever their appraisal may be, both parties will be bound by it.

When this committee considered this question in 1870, they examined it principally in its financial aspect, and concluded that it could not "be expected that the property of the Western Union Telegraph Company will be purchased for less than its market value." This is now over \$38,800,000, (410,000 shares, at \$80 per share, and \$6,000,000 of debt.) Its annual net income for the year ended July 1, 1872, was \$2,790,282, and its average net income for the last six years over \$2,500,000. The value of the other lines is considerable, though much less than those of the Western Union Telegraph Company.

It is undoubtedly true that the lines cost very much less than their

* New York Tribune.

† Report of committee of the House, 41st Congress, No. 114.

‡ Annual report 1869, p. 29.

§ Argument of Mr. Orton, 41st Congress, House of Representatives; report 114, p. 115.

nominal capital, and that, if constructed as cheaply as the average of all the lines in Europe, could be duplicated for \$23,000,000, but what estimate appraisers would fix is entirely conjectural. We all know how very frequently the actual cost of Government work exceeds the estimate. Mr. Scudamore estimated the cost of the English lines at \$12,500,000, or about the estimate of our Postmaster-General for the American lines; they actually cost over \$40,000,000 in gold, * and we doubt if the estimate of our Postmaster-General would be any nearer the amount.

This committee, at a prior Congress, heard much evidence on this point, but have not deemed it necessary to re-examine it, as they see no reason to alter the conclusion at which they then arrived, that they "should not feel justified, in the present financial condition of the Treasury, in reporting a bill to establish a Government telegraph," especially as the market value of the stock has risen more than 100 per cent. since that report was made.

The advantages of a uniform rate of 30 cents are self-evident. It would be a reduction of about 60 per cent. over the present rates, and would increase the number of telegrams, according to the estimate of its advocates, to about 30,000,000 a year—more than twice the present number, and greater than the increase in Great Britain. Yet even there, Mr. Scudamore, the efficient manager of the government telegraph, says: "The increase in the number of messages was out of all proportion to the facilities for transmitting them," and "foreseeing the great increase, we stoutly resisted a proposition for the establishment of a lower rate, under the belief that the increase would be greater than we could cope with."

With his present experience, in a recent letter to the House Committee on Appropriations, Mr. Scudamore says if the lower rate had been adopted, "the whole system must have hopelessly broken down," and expresses the opinion that a uniform rate would not be advisable in the United States. "Such a rate in a country so vast must either be so high as to stop traffic or so low that the traffic over long distances would be unremunerative."

We believe it would be impossible to provide either lines, wires, instruments, or operators for so great an increase; and the business could not therefore be performed promptly or correctly.

The proposed rate would probably not pay the expenses of operating the lines, and would therefore involve an annual appropriation to cover the loss. The average cost of messages in this country is about 45 cents; in the six countries of Europe it is 26 cents, and in all Europe is 34 cents.

In the bill submitted in the House for a government telegraph in 1870, it was provided that the rates for the press should be fixed by the Postmaster-General. The power which this right would give him—the same now held by the Western Union Telegraph Company—is self-evident.

It is estimated that there are about 10,000 employés in the telegraphic business, and while the concentration of offices and the use of stamps would render a less number necessary for the same amount of business, still the great increase in the business would prevent any reduction in the number employed.

The advantages of the governmental plan are, the reduction of rates and the regulation of the business by a general law; but it would probably require an outlay of at least fifty millions of dollars to purchase lines and make the extensions required to transmit 30,000,000 telegrams, and an annual appropriation for the loss resulting from the low rates. It would

* Evidence of Mr. Scudamore before Committee of Accounts, May, 1872.

† Tables in appendix.

give the Postmaster-General unlimited control over the press, and largely increase the number of office-holders and the power of the Executive.

The other plan requires no appropriation either for construction or maintenance of lines or office expenses. It will employ the existing instrumentalities of the Post-Office Department for receiving and delivering messages.

As in the mail-service, the telegraphic correspondence would be transmitted under contract by parties who would furnish and operate the lines at rates fixed by Congress. Only such an extension of the postal service would be required as the increase of correspondence and special delivery would render necessary.

The principal points for consideration are, the expediency of chartering a new company; the division of control and responsibility between the Department and a private corporation; the rights of the press, and the rates.

A new company is incorporated in the District of Columbia because the Western Union Telegraph Company has declined to undertake the service.* It is a corporation with limited powers, amenable to law, the agent of the Postmaster-General, chartered to perform the work now done by many companies, but without any monopoly. Its capital can never exceed the cash value of its property, and its dividends are limited to ten per cent. a year.

The service is divided between the Department and the company. As in all other mail contracts, the public have the same security that the company will perform its part of the contract promptly and with certainty, for in each case success and profit depend upon the service being well performed. The Postmaster-General has authority as adequate and complete as though he paid and employed the operators, since "he is authorized to make all necessary rules to insure correctness and dispatch, and to enforce them by fines and penalties, and to make deductions from the pay of the company for failures to perform the service according to contract, and to impose fines for other delinquencies."

This division of power is one great advantage of the system, and prevents the concentration of power either in the hands of the Executive or the company.

The press are not left to the caprice of any party, for the tariff is fixed by the law.

The rates are uniform for equal distances; one cent a word for distances under two hundred and fifty miles; two cents a word for distances between two hundred and fifty and five hundred miles; and one cent a word for each additional five hundred miles; one cent a word for each one thousand miles when sent by night. A comparison of the proposed with the present rates from Washington will show the reduction:

Distances from Washington.	Day rates.			Night rates.		
	Present rates.	Postal rates.	Reduction.	Present rates.	Postal rates.	Reduction.
			<i>Per cent.</i>			<i>Per cent.</i>
Under 250 miles.....	\$0 39	\$0 25	33½			
Between 250 and 500 miles	78	50	38	\$0 39	\$0 25	33½
Between 500 and 1,000 miles.....	1 14	75	35	57	25	56
Between 1,000 and 1,500 miles	2 42	1 00	58	1 21	50	58
Over 1,500 miles.....	5 00	1 50	70	5 00	1 00	80

Under the present system ten free words are allowed, exclusive of address and signature; under the postal system, twenty-five words, in-

* House Report of 1870, No. 114, p. 91.

cluding address and signature, which allows on the average eighteen free words, making a gain of eighty per cent. The rates in the bill are based on the report of the War Department to the Postmaster-General, fixing the rates to be paid by the Government for its telegrams. In this report these rates are said, after a careful examination, to be forty-five per cent. less than the rates now paid, and yet high enough to allow of a fair profit. This is as great a reduction as should be made at one time, on account of the difficulty of providing for the increased business resulting from so great a reduction of rates. Provision is made for the repayment of the amount received for telegrams, when there is a mistake or delay in their transmission. The Department will furnish the stamps and stamped paper for the telegrams, keep an account of the number of messages transmitted, their stamped value, and the number and value of stamps sold. It will receive the telegrams, deliver them to and receive them from the operator, will furnish envelopes, direct and deliver them; will furnish room for the employés, instruments and batteries of the company; for these services it will receive a postage of five cents on each telegram.

The Department now furnish stamps for letters and papers, keep full accounts of the number and value of all sold, receive letters, deliver them to and receive them from the contractor, and deliver them, one-third by carrier, the rest through the post-office. The cost of these office expenses is one and eight-tenths cents on each letter. The postage on each telegram will be five cents, or three and two-tenths cents for the extra cost of the telegram over the letter, which, it is believed, is sufficient to cover this cost, and to yield a small net revenue to the Department.

The introduction of stamps will effect an entire change in the telegraph system of accounts, and greatly simplify and reduce the expenses.

The whole property of the company is bound for the fulfillment of its contract, and there is no danger of any loss to the Government; on the contrary, there will be a profit from transacting the business.

The committee have endeavored fairly to present the features of the system now in operation and of those proposed as substitutes. In forming their opinion, they have borne in mind the desire felt by the Executive and the people for a reform in the civil service, and that the number of office-holders and the power of the Executive should not be increased unless absolutely required for the best interests of the country; that these powers should be strictly limited to functions which individuals cannot as well perform, and which ought not to be intrusted to private parties. They also recognize the fact that Government lacks the spur of private enterprise, and is less economical and efficient than private parties.

The committee have come to the unanimous opinion that the plan formerly recommended by them combines greater benefits to the public, with fewer objectionable features, than either of the other plans. It prevents the control from passing either into the hands of the Executive or of any private parties. It neither increases the power of the Executive nor the number of office-holders, while it throws around telegraphic correspondence the protection of law, and combines the security of a governmental with the efficiency and economy of a private system. It does not prevent competition; it makes a greater reduction of rates, and without any expense to the Post-Office Department, than was obtained in Great Britain at a great expense, and reserves to Congress the right to purchase the lines at any time at an appraised value.

The bill having been recommitted, it has been amended for the pur-

pose of meeting objections made by the Postmaster-General. It is believed they have been entirely obviated, and the substitute reported herewith protects the rights and interests of all parties.

Rates from Washington to the residences of the members of this committee.

To—	Present rates.		Rates proposed by bill.		Distance in miles.
	Day.	Night.	Day.	Night.	
Saint Paul.....	\$2 50	\$1 25	\$1 00	\$0 50	1,250
Bangor.....	90	45	75	25	700
Atchison.....	2 55	2 55	75	50	1,200
Grand Haven.....	1 70	85	75	25	700
San Francisco.....	5 00	5 00	1 75	75	3,000
Saint Augustine.....	3 25	1 62	75	25	1,000
Portland, Oregon.....	7 50	7 50	2 00	1 00	3,500
Total.....	23 40	19 22	7 75	3 50	

The total reduction is 60 per cent. on day and 80 per cent. on night telegrams.

A few instances from the annexed table of rates will illustrate the great diversity of charges for nearly equal distances:

Washington to New York and Williamsport.....	40 cents and 75 cents.
Washington to Wheeling, Albany, and Parkersburgh....	30 cents, 80 cents, and \$1.
Washington to Indianapolis, Bangor, and Grand Haven..	50 cents, 90 cents, and \$1.70.
Washington to Memphis, Mobile, and Saint Augustine..	\$1.25, \$2.50, and \$3.50.

Rates from Washington, January, 1872.

To—	Under 250 miles.		To—	Between 250 and 500 miles.	
	Distance.	Rates.		Distance.	Rates.
Baltimore.....	40	\$0 20	Pittsburgh.....	330	\$0 25
Harper's Ferry.....	80	45	Rochester.....	350	90
Wilmington.....	110	35	Albany.....	380	80
Harrisburgh.....	125	40	Parkersburgh.....	380	1 00
Richmond.....	130	25	Wilmington, N. C.....	380	1 20
Philadelphia.....	140	35	Wheeling.....	380	30
Cumberland.....	180	40	Buffalo.....	400	90
Williamsport.....	220	75	Boston.....	460	55
New York.....	230	40	Cleveland.....	480	1 25

Between 500 and 1,000 miles.			Over 1,000 miles.		
To—	Distance.	Rates.	To—	Distance.	Rates.
Columbus.....	520	\$0 70	Saint Augustine.....	1,000	\$3 25
Portland.....	560	75	Memphis.....	1,050	1 25
Charleston.....	587	1 00	Mobile.....	1,100	2 50
Cincinnati.....	600	50	Des Moines.....	1,100	2 30
Chattanooga.....	620	1 75	Atchison.....	1,190	2 55
Grand Haven.....	700	1 70	New Orleans.....	1,200	2 50
Bangor.....	700	90	Saint Paul.....	1,250	2 50
Chicago.....	800	1 00	Omaha.....	1,250	2 55
Indianapolis.....	700	50			
Vincennes.....	800	1 60			
Augusta.....	900	1 55			
Saint Louis.....	940	1 75			

The average of the rates under 250 miles is 39; by the postal telegraph it will be 25, a reduction of over 33½ per cent. Rates between 250 and 500 miles, 78; by postal telegraph, 50; a reduction of 38 per cent. Between 500 and 1,000 miles, \$1.14; by postal telegraph, 75; reduction of 35 per cent. Over 1,000 miles, \$2.42; by postal telegraph, \$1; reduction of 68 per cent.

Rates from New York, January, 1872.

Under 250 miles.			Between 250 and 500 miles.		
To—	Distance.	Rates.	To—	Distance.	Rates.
Morristown	30	\$0 35	Elmira	274	\$0 65
New Brunswick	32	25	Concord	300	50
New Haven	70	25	Burlington	300	80
Easton	75	50	Portland	320	50
Philadelphia	90	25	Richmond	360	75
Norwich	120	50	Rochester	385	50
Albany	150	30	Bangor	400	65
Pittsfield	150	40	Lynchburgh	400	80
Harrisburgh	182	25	Buffalo	423	50
Williamsport	200	65	Pittsburgh	430	25
Newport	200	50			
Boston	230	30			
Washington	230	45			

Between 500 and 1,000 miles.			Between 1,000 and 1,500 miles.			Over 1,500 miles.		
To—	Distance.	Rates.	To—	Distance.	Rates.	To—	Distance.	Rates.
Bristol	600	\$1 60	Savannah	1,000	\$1 25	Saint Augustine		\$4 00
Wilmington	608	1 60	Corinth	1,070	2 60	Galveston		4 00
Cleveland	628	1 00	Dubuque	1,100	1 50	Austin		4 25
Toledo	740	1 00	Saint Louis	1,150	1 50	Sante Fé		5 00
Indianapolis	810	1 60	La Crosse	1,150	1 50	Salt Lake		5 00
Charleston	810	1 25	Jackson	1,250	2 50	San Francisco		5 00
Chattanooga	850	2 00	Mobile	1,300	2 50	Portland		7 50
Cincinnati	860	50	Saint Paul	1,350	1 50			
Chicago	900	1 00	Atchison	1,350	2 90			
Louisville	960	75	Omaha	1,400	3 00			
			New Orleans	1,400	2 50			

A.—Rates from Saint Louis to offices less than 250 miles distant.

To—	Distance.	Rates.	Remarks.
Salem	80	\$0 65	Average rate 71 cents, or nearly double the average rate in the East.
Ironton	100	55	
Springfield, Illinois	100	55	
Springfield, Missouri	150	1 00	
Cairo	160	65	
Sedalia	190	85	

Comparison of average rates from New York.

Distance.	Present rates.	Postal rates.	Reduction.
Under 250 miles	\$0 37	\$0 25	33½ per cent.
Between 250 and 500 miles	62½	50	20 per cent.
Between 500 and 1,000 miles	1 23	75	38 per cent.
Under 1,000 miles—by night	62½	25	60 per cent.
Between 1,000 and 1,500 miles	2 14	1 00	53 per cent.
Over 1,500 miles	4 96	1 50	70 per cent.

[From report of Postmaster-General.]

Rates prior to and since May 1, 1870.

To—	Old rate.	New rate.
New York to Pittsburgh.....	\$0 25	\$0 50
New York to Cincinnati.....	50	1 00
Pittsburgh to Oil City.....	20	40
Pittsburgh to Titusville.....	20	40
Chicago to La Crosse.....	50	80
Chicago to Saint Paul.....	50	1 00
Chicago to Saint Louis.....	50	75
Chicago to Dubuque.....	20	75

Statistics of business of the Western Union Telegraph Company, from tables submitted to the House Committee on Appropriations and to the Postmaster-General.

Year.	No. paid telegrams other than press.	Receipts from paid telegrams.	Gross receipts.	Expenses.	Profits.	Miles of wire.	Offices.	Rate.
1868.....	5,733,394	\$6,337,105	\$7,264,852	\$4,443,924	\$2,820,928	97,594	3,331	\$1 10
1869.....	6,548,465	6,344,171	7,271,918	4,737,088	2,534,830	104,584	3,469	97
1870.....	7,859,028	6,395,683	7,323,430	4,970,685	2,352,745	112,191		83
1871.....	9,115,010	6,688,233	7,638,233	5,104,788	2,533,445	121,151	4,606	73.4
1872.....	10,271,935	7,478,012	8,457,095	5,666,863	2,790,232	137,190	5,237	72.8

Messages increased.....	80	per cent.
Expenses increased.....	27	per cent.
Offices increased.....	56	per cent.
Wires increased.....	40	per cent.
Rates reduced.....	35	per cent.
Profits reduced.....	1	per cent.
Average rate 1872.....	72 $\frac{2}{10}$	per cent.

Proportion of messages to population, as 1 to 4.

Returns of messages in Great Britain.

Total number messages for quarter ended July 1, 1870.....	2,326,639
Total number messages for quarter ended October 1, 1872.....	4,136,630
Total number messages for the year ended October 1, 1872.....	14,133,766

July 1, 1870, was the first quarter under the reduced rates of the postal telegraph; rates reduced 30 per cent; business increased 80 per cent.

Proportion of messages to population, as 1 to 2.

BELGIUM.

Telegrams in 1865, rate 1 franc.....	674,034.	1866. Telegrams, rate $\frac{1}{2}$ franc	1,128,000
Expenses.....	\$132,100.	Expenses.....	\$167,191
1871. Telegrams, 2,380,266 messages; to population as 1 to 2.			

SWITZERLAND.

Telegrams in 1867, rate 1 franc.....	397,289.	1868. Telegrams, rate $\frac{1}{2}$ franc.	798,186
Expenses.....	\$130,817.	Expenses.....	\$169,496
1871. Telegrams, 2,023,994 messages; to population as 1 to $1\frac{1}{4}$.			

Table of some telegraphic statistics of five countries of Europe, in 1869 and 1871, taken from the "Statistique Générale de la Télégraphie," Berne, 1871, and from report of the Postmaster-General.

Name of country.	Mileage of wire.	Total cost.	No. of telegrams.	Annual cost.
Austria.....	45,664	\$4,252,388	4,089,754	\$1,402,887
Bavaria.....	9,387	711,269	1,010,176	125,450
Belgium.....	8,615	485,931	2,380,266	324,267
France.....	74,037	5,934,164	6,137,154	2,514,000
Germany.....	51,809	3,798,369	7,928,588	1,578,294
Switzerland.....	6,375	333,709	2,023,994	227,636
Total.....	185,887	15,515,830	23,569,932	6,172,534

Average cost per mile of wire, \$83.

Average cost per telegram, 26 cents.

According to the report of the Postmaster-General, "Telegraphs 3," there are 501,558 miles of telegraphic wire in all Europe, costing \$43,136,570, or an average of \$86 a mile.

In this report the cost of the telegraph in Great Britain is estimated at \$9,000,000, the average of continental lines; the actual cost was \$40,000,000. Making this correction, the cost of the European lines is \$73,136,570, or an average of \$143 per mile of wire; 44,160,487 messages transmitted, the receipts from which were \$16,826,980, and the expenses, \$15,180,596, making the average tariff 38 cents, and the actual cost of transmission 34 cents per message.

According to the same report, there are 165,000 miles of wire in America, costing, at above average of \$143; \$23,595,000.

THE ASSOCIATED PRESS.

[From Report No. 115, Forty-first Congress, Second Session, House of Representatives.]

The New York Associated Press is an association of seven papers, the Journal of Commerce, Herald, Sun, World, Tribune, Times, and Express. It collects news from all quarters of the world. The commercial news of the Old World it sells to the commercial news department of the Western Union; the general news it sells to other news associations in all parts of the country. An agreement was made with the Western Union Telegraph Company, dated December 22, 1865, which is acted upon by the parties.

The Western Union Telegraph Company agrees that it will not, and that its employés shall not, be interested in any association which may compete with the New York Associated Press, and that while its employés may act as agents for collecting news for the Associated Press, they shall not act in that capacity for other parties. The Associated Press, on their part, agree that they will not employ any other telegraph company to transmit their news, nor sell it to any paper that employs any other telegraph company to transmit any "telegraphic message which may relate to the news or to the business of the newspapers." This arrangement has therefore compelled all other papers to obtain their news of the New York Associated Press and of the Western Union Telegraph Company. These papers cannot send specials by another company without forfeiting their right to the Associated Press news. If they complain, they are notified that they can take the news or let it alone, at their pleasure.

No newspaper has obtained a position as a first-class paper without the Associated Press news. The New York Associated Press has, it is believed, made a large profit from selling this news, besides receiving its own news free of charge. There are other press associations in various parts of the country—the New England, New York State, Western, Southern, Southwestern, and California Associations—besides local associations in each large city. Each of these associations collects the news in its own territory without cost to the New York Associated Press, and then transmit it to their agent at New York. Each association makes a close corporation, admitting no new member except by unanimous consent; consequently no new paper can obtain

the Associated Press news. When the present proprietors of the New York Sun desired to start a newspaper, they were forced to purchase the Sun at a cost of \$150,000, in order to obtain the Associated Press news. The Western Associated Press agreement contains the following clause, that they "shall employ the said telegraph company exclusively to transmit its news, and that they will not in any way encourage or support any opposition or competing telegraph company." In a circular the attention of the association "is invited to the clause in our contract which forbids us to encourage or support any opposition or competing telegraph company; and it is proper I should say in this connection, that clause was to the telegraph company a valuable consideration for the favorable terms upon which they contracted with us." The contract between the New York Associated Press and the Western Associated Press contains the following clause: "Nor will either association sell or permit its news to be sold to any paper or papers within the territory of the other without the expressed assent of such association." Similar provisions it is believed are contained in the agreements made with all the press associations.

The most important of the contracts between the Western Union Telegraph Company and the different associations are terminable at from thirty days to six months' notice by either party. The Western Union Telegraph Company has the power to increase the rates. It can raise them so high to any association or paper that it could not afford to take the news. Time would elapse before any other arrangement for telegraphic news could be made, and as the public will not support any paper that does not have the Associated Press news, it must fail. The press naturally respect and fear to offend this monopoly.

The California press consists of four papers in San Francisco and one in Sacramento, all belonging to the same political party. A conservative paper was started in the fall of 1868. The Western Union Telegraph Company agreed to furnish it with 500 words a day, for $6\frac{2}{100}$ cents per word, gold. A few months later an arrangement was made with the California Associated Press, by which dispatches of an increased length were furnished to the Associated Press, and the rates reduced from $2\frac{4}{100}$ cents per word to $1\frac{2}{100}$ cents to each paper, while they were raised to the Herald to $15\frac{3}{100}$ cents per word.

The "valuable consideration" to the press for the support of this monopoly can be estimated by the facts furnished by the Western Union Telegraph Company. The total receipts of Western Union Telegraph Company for year ending June 30, 1867, from the public, were \$5,738,627; from the press, \$830,927. There were delivered to the public 8,000,770 messages, at an average of 25 words each—200,119,250 words. Of the regular reports, there were delivered to the press 294,503,630 words. The specials amounted to 75,359,760—in all, 369,863,390; or, for one-seventh the money, 175 per cent. more words. "The average telegraph tolls on these reports were three and one-half cents for a message of twenty words."

Statement of the Western Union Telegraph Company, page 8.

The aggregate amount of news delivered to the newspapers during the past year (June 30, 1869) was 369,503,630 words, for which we received \$883,509, being at the rate of $2\frac{3}{10}$ mills per word. This immense amount of matter was not transmitted to each paper separately, but through a combination of wires only possible to a vast system such as ours, it was sent to a large number of places simultaneously, with only one transmission. It is a fact worthy of remark that the amount of news which this company delivered to the press during the year 1868 for an aggregate sum of \$883,509, in currency, largely exceeded the entire telegraphic correspondence of continental Europe, for which there was paid \$7,837,238, in gold." (Report of W. Orton, president, 1869, page 28.)

IN THE SENATE OF THE UNITED STATES.

DECEMBER 19, 1872.—Ordered to be printed.

Mr. PRATT, from the Committee on Claims, submitted the following

R E P O R T :

The Committee on Claims, to whom has been referred the petition of John R. Graton, submit the following report :

The substance of the petition is as follows: Captain Graton alleges that on the 11th of August, 1862, he entered the military service as recruiting-officer, and engaged in recruiting for the 1st Kansas Colored Volunteers, then in process of recruitment, by authority of James H. Lane, recruiting-commissioner; that in September he recruited 65 men and was anxious and entitled to be mustered as lieutenant at that time; that the United States authorities refused to muster him until January 13, 1863, on which day he was mustered into service with rank of captain, the mustering-officer refusing to muster him as of the date at which he claims he was entitled to take rank, upon the ground that no prior authority existed for the organization of colored troops. He claims that from 1st September, 1862, to January 13, 1863, he actually served in camp and field as a commissioned officer, and for that period of time he has received no pay whatever. He claims that the Assistant Adjutant-General has directed the payment of several officers who performed like services under similar circumstances, during the same period and in the same regiment, while he has refused the application of the petitioner. He claims the pay of second lieutenant from 13th September, 1862, to 13th January, 1863, four months, \$400.

He supports his petition by his affidavit, stating in detail his military services during this period.

The War Department resisted the payment of his claim on grounds which will appear by the following letter of the Assistant Adjutant-General to the attorney of the claimant:

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, D. C., April 22, 1870.

SIR: Referring to the claim of John R. Graton, late captain 79th United States Colored Troops, for muster and pay for services alleged to have been rendered prior to muster in, I have to inform you that it appears from the evidence presented and of record that the claimant held no appointment during the period covered by his claim; that the service, if performed, was rendered without proper authority and before the recruitment of colored troops had been authorized in the State of Kansas; that as soon as practicable after the promulgation of the President's proclamation authorizing the recruitment of colored troops, the regiment to which the claimant belonged was received into service, and he (claimant) mustered in therewith, as captain, and his muster, as described, with that of other officers of the same regiment, was recognized and confirmed by the War Department in the issue of appointments as of the grades in which the officers were severally mustered.

By the muster and appointment of the regimental officers, as indicated, their *status* as officers and the date of their entry into service is regarded as finally determined.

For claims prior to muster there is no roll, post return, or other sufficient independent evidence to support the affidavits and statements of the claimants, and the affidavits and statements from others filed in support of claims.

In view of the facts cited, no action can be had by this Office looking to the payment of Captain Graton or other officers of the 79th United States Colored Troops, for services rendered prior to the muster of the regiment.

The cases cited in your letter, in which claims have been favorably considered, form no precedent for this or future cases.

Very respectfully, your obedient servant,

THOMAS M. VINCENT,
Assistant Adjutant-General.

H. SPAULDING, Esq.,
Attorney, Washington, D. C.

It will be seen from this letter that the service for which compensation is demanded was performed without proper authority, and before the recruitment of colored troops in Kansas had been authorized; and in the next place that the regiment to which the claimant belonged (79th United States Colored Troops) was received into service, and the claimant mustered in therewith as captain, as soon as practicable after the promulgation of the President's proclamation authorizing the recruitment of colored troops.

The committee do not perceive why the remaining officers and the privates of that regiment are not entitled to pay during the period of service antecedent to the muster in, if this application prevail. The question opened is a large one. It would involve the necessity of inquiring what provision has been made by the State of Kansas for re-imbursing the expenses incurred in enrolling, subsisting, clothing, arming, and transporting troops raised for the service of the United States before the organizations were completed and the troops mustered into service. In point of fact, an act was passed by Congress on the 8th of June, 1872, appropriating \$337,054 to that State for this purpose. In the present condition of the proofs, it cannot be known whether Captain Graton is not a beneficiary under that law. If the organization in question is not provided for in that act, it would better comport with past legislation that the claimant should find relief through the intervention of that State, and through a general bill providing for all cases of services not paid for.

They, therefore, recommend that the petitioner be allowed to withdraw his petition.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 19, 1872.—Ordered to be printed.

Mr. PRATT submitted the following

R E P O R T :

[To accompany bill H. R. 2442.]

The Committee on Pensions, to whom was referred bill H. R. 2442, granting a pension to Charles B. Fairchild, submit the following report :

The claimant in this case made a declaration for a pension to the Pension Bureau on the 2d day of May, 1866, in which he stated that he was a first lieutenant in Company A, in the First Regiment New York Veteran Cavalry, in the rebellion of 1861, and that he was honorably discharged at Camp Pratt, in West Virginia, on the 20th of July, 1865; and that on or about the 12th of July, in that year, while riding from Gauley Bridge to Princeton Court-house and return, he suffered a rupture or hernia, the same being caused by excessive riding in hot weather. With this declaration he filed the affidavits of two witnesses that he was a person of industrious and temperate habits, and by occupation a farmer.

From an affidavit of Colonel Platner, it appears that on the 8th day of July, 1865, the claimant started, in command of an escort of 40 men, to conduct the witness from Gauley Bridge to Princeton Court-house, and return through Lewisburgh to the place of starting, and in the discharge of that duty Fairchild was compelled to be in the saddle every day for ten days, the escort averaging thirty miles a day, the weather being very warm. During the first part of the march the claimant was in the saddle and took charge of the men, but, complaining of pain in the region of the groin, he was compelled to ride in a wagon a portion of two days. When the witness and escort reached Gauley Bridge, on July 18, they found the camp of the detachment nearly broken up, and the regiment was mustered out on the 20th, two days later. There was then no time for the claimant to report to the surgeon of the regiment, and he further swears that the claimant never complained and never appeared unwell until on the return march, and he expresses the belief he was ruptured on that march.

Two affidavits of Doctor Orton, examining surgeon, show that he was the family physician of Fairchild; that he was sound and free from hernia at the time of his enlistment; that in August, 1865, he examined him and found an oblique, inguinal hernia of the right side. It then had the appearance of being a recent injury, the claimant having then recently returned from the Army. He was fitted with a truss by Doctor Orton, who, on May 2, 1866, estimated the degree of his disability at one-half.

Doctor Hand, a physician of Binghamton, treated Fairchild for

inflammation of the bowels from the 10th May to the 14th of December, 1871, and was of the opinion the disease was, in a great measure, the result of hernia, from which the claimant was suffering. This witness states that the claimant was wholly disabled from labor during the period he so treated him.

Another medical gentleman treated Fairchild in February and March, 1871, and also during March and April, 1870, for inflammation of the bowels. He says that, during the three years he has known the claimant, he has been subject to frequent attacks of cæcal colic, caused by an inflamed condition of the bowels, and he expresses the opinion the disease was caused, in a great measure, by hernia, from which he was suffering; and, from information, he thinks the hernia was the result of the hard ride above described. This witness also speaks of the claimant's total disability.

Still a third medical witness, as late as March, 1872, speaks of attending Fairchild, and says he was then suffering from celiac colic, aggravated by hernia, and that he was unfit for any constant employment, mental or physical.

His discharge papers, first as a private, by reason of promotion, and next as an officer, by reason of General Order 94, Adjutant-General's Office, are among the evidence.

He was denied a pension by the Commissioner, and the later evidence, given above, has been furnished during the pendency of his memorial to Congress.

The committee are of opinion that the testimony makes it reasonably clear that he was a sound man at the time of enlisting, and that his disability originated while he was in the service, and in the line of duty. It is shown he was a good man and faithful officer. They think whatever doubts there are in his case should be resolved in his favor. The testimony seems to be impartial, and proceeds from intelligent witnesses.

They therefore recommend the passage of the bill without amendment.



IN THE SENATE OF THE UNITED STATES.

DECEMBER 19, 1872.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT :

(To accompany bill H. R. 2445.)

The Committee on Pensions, to whom was referred House bill 2445, granting a pension to Susan Schofield, submit the following report :

It is shown that Susan Schofield is the widow of Alfred F. Schofield, and has one child by her marriage, who will be 16 years of age in the year 1875; that her husband enlisted and was mustered into service as a private in Company D, Third Kentucky Cavalry, December 13, 1861. He served as such private until May 5, 1862, when he was appointed by his colonel, Eli H. Murray, commanding said regiment, to the office of first lieutenant and adjutant third battalion of the regiment, the office being at that time vacant; that, in pursuance of and by virtue of this appointment, he entered upon and discharged the duties of this office, and was recognized as such officer until the period of his death, which occurred on the 6th of September, 1862, in the Government hospital at Nashville; that he was mustered in his regiment for pay as first lieutenant; that when he died his widow received from the Second Auditor of the Treasury \$326.49, being his pay from February 28, 1862, to September 6, which amount embraced his pay as private to a certain date, and his pay as first lieutenant for the residue of the time; that the muster-roll of Company D shows, under date of December 26, 1864, that Schofield was reported as "private, promoted to adjutant of first battalion Third Kentucky Cavalry, May 5, 1862." The Surgeon-General also reports him as "second lieutenant and battalion adjutant Third Kentucky Cavalry, died September 6, 1862." The letter of General Murray, formerly colonel commanding Third Kentucky Cavalry, shows that Schofield was recognized by him as his third battalion adjutant, with rank of lieutenant, and that he was efficient and worthy, but the adjutant-general of Kentucky certifies there is no record on file in his office of Lieutenant Alfred Schofield, first battalion Third Kentucky Cavalry. This is probably due to the disturbed condition of the State of Kentucky at that period. The fact remains that Schofield acted as lieutenant and adjutant, and was recognized as such by his commanding officer and the Pay Department, though no commission seems to have issued.

The committee are of opinion that his widow is entitled to a pension of the grade of a lieutenant, and recommend the passage of the bill without amendment.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 19, 1872.—Ordered to be printed.

Mr. PRATT submitted the following

R E P O R T :

[To accompany bill H. R. 2446.]

The Committee on Pensions, to whom was referred bill H. R. 2446, granting a pension to Benjamin Clark, submit the following report :

The bill directs the Secretary of the Interior to place the name of Benjamin Clark on the pension-roll, at the rate of \$8 per month.

The case he makes in his petition for relief is as follows: On the breaking out of the rebellion he had six able-bodied sons, all of whom volunteered and went into the service of the United States, two of them in the Forty-fifth Regiment Pennsylvania Infantry, three in the Pennsylvania Reserves, and one in the Ninety-third Regiment Pennsylvania Infantry, two of whom (Roland and Daniel) were killed before Richmond, one (Frank) died of wounds at Annapolis, and one (Henry) was starved to death in the rebel prison at Salisbury. Two returned home, one wounded in the shoulder, one disabled in his foot, and both are poor and unable to render the petitioner any support. He represents himself about eighty years of age, and entirely destitute of means, except as supplied by public charity.

The guardian of the poor of Buck Creek Borough certifies that Mr. Clark is a public charge on the borough and destitute of any means of support, and further certifies that he knows the statements of the petitioner to be true. These statements are also proved to be true by the affidavit of Mr. Clark and several citizens who have known him, some thirty, some fifty years. A large number of citizens of the borough petition Congress to grant the relief asked—a pension—and confirm Mr. Clark's petition. The extraordinary fatality which followed this patriotic family of children in their efforts to serve the country seems to make this case worthy of an exception, and the committee recommend the passage of the bill for the relief of its aged and destitute head.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 19, 1872.—Ordered to be printed.

MR. PRATT submitted the following

REPORT:

[To accompany bill H. R. 2892.]

The Committee on Claims, to whom was referred bill H. R. 2892, for the relief of John Clinton, of Brownsville, Tennessee, submit the following report :

Mr. Clinton is postmaster at Brownsville. It is a money-order office. The building used as a post-office for the past three years was furnished to Mr. Clinton by the county court of Haywood, and was used for no other purpose. On the 1st day of November, 1870, the office was entered by a thief by the use of a false key. The money-order drawer, kept for that purpose and no other, was opened, and the sum of \$395, money-order funds, was abstracted while the postmaster was absent at dinner and the office securely locked. The thief, one George Ellis, was arrested, a preliminary examination before a United States commissioner was had, who committed the accused to jail, to await the further action of the United States court at Memphis. Of the sum stolen \$20 has been recovered. The funds stolen were kept in a separate drawer, distinct from the postal and his individual money. It was Mr. Clinton's intention to send off these funds that very evening to the depository at Memphis, it being his habit to make daily deposits. These are the facts as stated by the memorialist under oath. His deputy confirms the statement that there was a separate, distinct drawer for the use of money received from the issuing of money-orders. The commissioner who heard the evidence and committed Ellis, certifies that the evidence on the trial showed no negligence on the part of Clinton, nor carelessness contributing to the theft, but, on the contrary, showed that he took every precaution to protect the interest of the Post-Office Department that prudent and cautious men would take. The prosecuting attorney on the trial, and the attorney of the United States for that district, confirm the statement of the commissioner. The latter officer certifies that the case is pending before the grand jury of the United States court, but there is doubt of jurisdiction, and no indictment had yet been found. He further certifies that Clinton is a deserving man, and a correct, efficient, and honest postmaster, and recommends that the prayer of his petition be granted. The postmaster at Memphis certifies, under date of February 10, 1871, that since he took charge of that office, June 1, 1869, Clinton had been depositing postal and money-order funds with his office, and he had always found him correct in all his business transactions with him, and expresses the opinion that he is a gentleman of integrity, whose word could be relied on.

From a letter of recent date written by the district attorney, it appears no indictment was found in the Federal court, no statute being found covering the case, and it seems the influence of friends has saved Ellis from punishment under the State laws.

These are the facts.

The census report shows that Brownsville contained a population of 2,457 in the year 1870. The salary of the postmaster during that year was \$1,160. If he provided himself with a safe, the fact does not appear. The outer door of the building was locked, the money-drawer also. But the fact remains, the building was without an occupant at the time the larceny was committed. The postmaster himself was at dinner. Should the officer be relieved of the loss? Has he shown prudence commensurate with his trust? With the caution and diligence of a very prudent man, would this loss have occurred? The committee are of opinion that these questions must be answered in the negative, and recommend that the bill be indefinitely postponed.



IN THE SENATE OF THE UNITED STATES.

DECEMBER 19, 1872.—Ordered to be printed.

Mr. PRATT submitted the following

R E P O R T :

[To accompany bill H. R. 2904.]

The Committee on Claims, to whom was referred bill H. R. 2904, for the relief of George Reber, submit the following report :

This case is very similar to one before this committee at the last session; that of Thomas D. West. (See act of June 10, 1872, Chap. 453, 2d session Forty-second Congress, p. 62.)

In the winter of 1863-'64, Reber was the owner of a large stone building in Sandusky, Ohio, known as "Reber's Block." Quartermaster Brooks, by order of General Terry, took possession of the second and third stories of the block for the use of the United States troops, three regiments of which had been concentrated at that point, and the rooms were occupied as barracks by the troops for some months. The purpose of this concentration of military force was to guard against any attempt to release the rebel prisoners, a large number of whom were then confined on Johnson's Island, about one mile distant.

A board of survey was organized in 1864, to ascertain the damages done to the building, and the rent which should be paid. The board took considerable testimony in the case, examining persons who were acquainted with the premises, and competent mechanics, and subsequently made a report placing the rent of the rooms at \$361, and assessing the damages to the premises at \$797.15.

The accounting officers of the Treasury, having no jurisdiction over cases of unliquidated damages, could allow only the rent, and that was paid to the claimant. The Third Auditor, in a letter to a member of the House representing that district, dated June 8, 1872, reciting the foregoing facts, adds: "If it is now proposed by Congress to entertain the claim for damages, it is my opinion that the report of the board of survey above mentioned is the most satisfactory evidence of the amount that should be paid, viz, \$797.15." He was speaking of the damages done to the building as assessed by the board.

The committee cannot distinguish this case from that of Mr. West, sanctioned by Congress at the last session, and accordingly recommend the passage of the bill without amendment.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 19, 1872.—Ordered to be printed.

Mr. FRATT submitted the following

REPORT:

[To accompany bill S. 938.]

The Committee on Claims, to whom was referred Senate bill 938, "conferring jurisdiction upon the Court of Claims to hear and determine an informer's moiety case," submit the following report:

The bill provides that any person claiming to have been an informer, or the officer making the seizure, in what are known at the Treasury Department as the Couturie sugar-fraud cases of 1869 and 1870, at New Orleans, may institute against the United States, in the Court of Claims, and prosecute to final decision, a suit for the informer's share of the forfeiture.

For the reasons given by the Secretary of the Treasury, in the subjoined letter to the chairman of this committee, the committee recommend that the bill be indefinitely postponed.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
May 14, 1872.

SIR: I have the honor to acknowledge the receipt of a letter from the clerk to the Senate Committee on Claims, under date of the 11th instant, written by direction of the committee, asking for such information as may be in possession of the Treasury Department relating to Senate bill 938, conferring jurisdiction upon the Court of Claims to hear and determine an informer's moiety case.

The text of the bill shows that the object is to give to certain claimants to the informer's share in the penalty imposed by the Government, in certain fraudulent cases known as the Couturie sugar cases, authority to institute proceedings against the United States in the Court of Claims for the adjudication of their rights.

The claimants in the Couturie sugar cases are not distinguishable from claimants for the informer's share in other cases disposed of under the law by the Treasury Department. This case has been before the Department for a long period of time; the parties have had opportunity to introduce testimony and present arguments in support of their respective claims. The testimony has been carefully examined, and the arguments fully weighed by the Department, and the result reached that no person was entitled to a share under the law as informer. The opinion of the Department further was, that no officer was entitled to a share as seizing officer, and consequently by operation of law the half of the moiety which otherwise might have gone to an informer, or in the absence of an informer to the seizing officer, had there been one, inures to the benefit of the collector, surveyor, and naval officer at the port of New Orleans. The order for the distribution of the penalty in question was made some days since, and the share of the collector was paid to him upon his giving a bond that in case of recovery in the Court of Claims, a suit having been already instituted in that court against the United States, the money paid should be re-imbursed. The surveyor and naval officer have been informed that payment will be made to them upon a like bond being given in their respective cases. A bond has been taken as a precaution against possible recovery in the Court of Claims, although the suit instituted in behalf of one of the claimants is believed by this Department to have no legal foundation on which it can be prosecuted.

I have already, on several occasions, expressed the opinion to Congress, that the law giving to the officers mentioned and to others who may act as seizing officers, or as informer a share in the penalties, is unwise as a measure of public policy, and exceedingly corrupting in its influence upon the administration of the law; but while the law remains the Department has no choice but to execute it.

In the nature of the case, there is no reason why one set of persons claiming to be informers, should have an opportunity to take the judgment of the Court of Claims when the case has been disposed of by the ordinary course of proceeding in the Treasury Department under existing laws, unless the same privilege is extended to all persons whose claims as informers have been decided adversely.

Very respectfully,

GEO. S. BOUTWELL,
Secretary.

Hon. T. O. HOWE,
Chairman Committee on Claims, United States Senate.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 19, 1872.—Ordered to be printed.

Mr. SAULSBURY submitted the following

REPORT:

[To accompany bill H. R. 2463.]

The facts, as they appear from the papers in this case, are briefly these: That in the year 1863 a certain William Cleft undertook to raise a regiment, to be called the Seventh Tennessee, within the lines of the confederate forces; that one O. G. Frazier, who was assisting said Cleft, engaged the services of F. A. Carter, husband of Ellen W. P. Carter, to assist him, and promised him position as a first lieutenant; that said Carter, while engaged in recruiting, was surprised and killed by the confederates; that the regiment he was assisting to raise was never mustered into the service of the country, and that said Carter never was in the military service, or authorized by any officer of the Government to recruit for the service, but his act was voluntary. While the committee regret his unfortunate death, and sympathize with his widow in her bereavement, they do not think that the case made falls within any class that ought to be pensioned. It would extend the obligations of the Government entirely too far to grant relief to all cases of misfortune, and they therefore are compelled to report adversely upon this bill.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 19, 1872.—Ordered to be printed.

Mr. SAULSBURY submitted the following

REPORT:

[To accompany bill H. R. 2465.]

The papers in this case allege that James C. Cooksy, husband of Hilla A. Cooksy, had been in the military service, and was discharged on account of bad health in April, 1863; that in October, 1864, he was taken from his house by rebels or bushwhackers, and shot because he had been a Union soldier. Admitting the facts stated to be true, do they entitle his widow to a pension? He was not in the military service at the time he was killed, and had not been for eighteen months. He did not die of wounds or injuries received, or disease contracted, in the service, but was murdered by outlaws that infested Missouri at that time. The committee see nothing in this case to distinguish it from that of any other murder, and are compelled to report the bill back adversely.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 19, 1872.—Ordered to be printed.

Mr. SAULSBURY submitted the following

REPORT

[To accompany bill H. R. 2466.]

The Committee on Pensions, to whom was referred House bill 2466, granting a pension to Angelica Hammond, report as follows :

Angelica Hammond is the widow of William Z. Hammond, late a private in Company E, First Maryland Cavalry volunteers, as appears from the accompanying paper. It further appears, from the paper aforesaid, that said William Z. Hammond was absent from his company from December 1, 1862, to February 17, 1863. He was marked on the records in the War Department "deserted;" and the evidence offered to remove said charge was deemed insufficient by the military authorities, and the application of the widow for a pension was rejected on this ground. The committee would hesitate, from all the evidence in the case, to say that his absence from his company ought to be charged as desertion, for there is proof that he wore his uniform during that time, and did not conceal himself, and was not well, although able to be about at different times. It is certain, however, that his officers did not know his whereabouts. He was discharged February 17, and died some months after. The facts do not present a case which, in the judgment of the committee, ought to entitle the widow to a pension. To do so there should be proof to remove all suspicion of desertion, and that the disease of which he died was the result of his service. Such proof is wanting, and the committee report adversely on the bill.

IN THE MATTER OF THE ESTATE OF A. J. ...

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IN THE SENATE OF THE UNITED STATES.

DECEMBER 19, 1872.—Ordered to be printed.

Mr. SAULSBURY submitted the following

REPORT:

[To accompany bill H. R. 2467.]

The facts in this case appearing in the papers accompanying the bill are these: Abraham E. Autry was a corporal in Company K, Thirty-seventh Kentucky Infantry. In 1865 the members of the regiment were allowed to go home on furlough, and directed to return to a place named at a certain time, to be mustered out. On his way to the designated place the soldier was taken sick and died, and this bill is to give his widow a pension. Her application was rejected at the Pension-Office on the ground that the disease was contracted and death ensued while on furlough, which was not granted on sick-leave. The furlough was granted because service of soldier was not needed, and not as a special favor to the soldier. The committee think this furlough distinguishable from furloughs granted soldiers for their own gratification, on their own application, at a time when their services may be needed; and, as the soldier died while on his way to be mustered out, the committee favor the bill and recommend its passage.

IN THE UNITED STATES OF AMERICA

REPORT

OF THE

COMMISSIONERS

OF THE LAND OFFICE

The first of the reports of the Commission of the Land Office, under the act of Congress, approved March 3, 1870, is now published. It contains a full and complete statement of the progress of the work of the Commission during the year ending March 31, 1871. The report is divided into two parts, the first of which contains a general statement of the work of the Commission, and the second contains a detailed statement of the work of the various divisions of the Commission. The report is published in two volumes, the first of which contains the general statement, and the second contains the detailed statement. The report is published in the English language, and is also published in the Spanish language. The report is published in the English language, and is also published in the Spanish language. The report is published in the English language, and is also published in the Spanish language.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 19, 1872.—Ordered to be printed.

MR. PRATT, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to whom was referred the petition of certain citizens of West Virginia, praying that compensation may be made to Henry Garrett, of Caroline County, Virginia, submit the following report:

Three gentlemen, describing themselves as citizens of Jefferson County, West Virginia, petition Congress to pass a bill for the allowance of damages for losses sustained in the spring of 1865, by Henry Garrett, by the burning of his barn and other property by the United States troops, in the capture of J. Wilkes Booth and his accomplices. They say they are well acquainted with Mr. Garrett, and know him to be a highly respectable and much esteemed gentleman, advanced in years, with many helpless dependents looking to him for support, and possessed of limited means, he having been reduced to his present situation by the incidents of war.

There is nothing beside this petition before the committee. Nothing is said in that concerning the political sentiments and conduct of Mr. Garrett during the war; nor is there anything said of the value of the property destroyed. It is impossible for the committee, under these circumstances, to investigate the case, and they recommend that the petitioners be allowed to withdraw their petition.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 20, 1872.—Ordered to be printed.

Mr. FERRY, of Connecticut, submitted the following

REPORT:

[To accompany bill H. R. 2453.]

The Committee on Pensions, to whom was referred House bill 2453, being an act granting a pension to Rosa Wollaner, respectfully report:

That Rosa Wollaner is the only child under sixteen years of age of Frederick Wollaner, deceased, late a private in the One Hundred and Ninety-eighth Regiment Pennsylvania volunteers, who died in the service, of disease contracted in the line of his duty. That a pension to said Rosa has been refused at the Pension-Office, because she is unable to account for two children of her father by his first marriage. It does now appear, however, that said children of the first marriage, if surviving, are both more than twenty-one years of age at the present time, and the said Rosa ought not to be debarred of her pension by reason of their existence.

The committee recommend the passage of the bill with an amendment.

IN THE SENATE OF THE UNITED STATES

REPORT

OF THE

REPORT

OF THE

COMMISSIONERS OF THE LAND OFFICE, IN RESPONSE TO A RESOLUTION PASSED BY THE SENATE, MARCH 18, 1881.

That the Commission of the Land Office, in response to a resolution passed by the Senate, March 18, 1881, has the honor to submit herewith a report on the progress of the work of the Commission during the year ending March 31, 1882. The Commission has the honor to acknowledge the receipt of the resolution of the Senate, March 18, 1881, and to state that it has been the duty of the Commission to comply therewith as far as possible. The Commission has the honor to state that it has been the duty of the Commission to comply therewith as far as possible. The Commission has the honor to state that it has been the duty of the Commission to comply therewith as far as possible.

The Commission has the honor to state that it has been the duty of the Commission to comply therewith as far as possible. The Commission has the honor to state that it has been the duty of the Commission to comply therewith as far as possible.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 20, 1872.—Ordered to be printed.

Mr. FERRY, of Connecticut, submitted the following

REPORT:

[To accompany bill H. R. 2455.]

The Committee on Pensions, to whom was referred House bill 2455, being an act granting a pension to Jerome E. Pampell, respectfully report:

That it appears, from the evidence, that the case falls within all the provisions of the pension laws, except that the disability was incurred while the soldier was on furlough; that the furlough was granted to enable him to go to his home and vote, and he was permanently injured by a railroad accident on his return to his company, the committee recommend the passage of the bill.

THE HISTORY OF THE

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OF

The reign of the Emperor of the East, who reigned from the year 1847 to 1848, was a period of great importance in the history of the world.

It was a period of great change and progress, and it was a period of great suffering and sorrow. The Emperor of the East, who reigned from the year 1847 to 1848, was a man of great wisdom and great courage. He was a man who was loved by his people, and he was a man who was respected by his enemies.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 20, 1872.—Ordered to be printed.

Mr. POMEROY submitted the following

REPORT:

[To accompany bill S. 705.]

The committee find, on investigation, that John Cleghorn was register of land-office at Sioux City, State of Iowa, from July 17, 1867, till July 19, 1871. During the time, he entered and acted upon 2,518,200 acres. The amount of fees received by Government was \$63,652.70. Of this Mr. Cleghorn received \$10,000 in fees, and \$2,000 in salary, making a total of \$12,000, out of which he expended for clerk-hire and other expenses \$8,153.36, leaving him for four years' services, \$3,846.75.

And the committee find that there is justly due Mr. Cleghorn, on account of clerk-hire, the sum of \$6,753.26. In view of the foregoing facts, the committee recommend the passage of the bill.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 20, 1872.—Ordered to be printed.

Mr. HOWE submitted the following

REPORT.

[To accompany bill H. R. 1187.]

The Committee on Claims, to whom was referred bill H. R. 1187, "for the relief of Jacob R. Davis, of Richmond County, Georgia," have examined the same, and beg leave to bring in the following as their report:

The bill proposes to pay Jacob R. Davis fifteen hundred dollars for his services as agent of the Freedmen's Bureau for Richmond County, in the State of Georgia, for one year, between the 1st day of June, 1866, and the 1st day of June, 1867. The insuperable objection to making the payment is this: during that year Mr. Davis was not an agent of the Freedmen's Bureau. Prior to the 1st of June, 1866, he was an agent, and was paid for his services. Subsequently to the 1st of June, 1867, he was again employed as an agent, and was again paid for his services, but for the intermediate time he was not an agent. He might have been an agent had the Commissioner seen fit to appoint him. Under the act of July 16, 1866, there was no limit upon the authority of the Commissioner and the President to appoint agents. The language of the 3d section is: "And the Commissioner shall, under the direction of the President, and so far as the same shall be in his judgment necessary for the efficient and economical administration of the affairs of the Bureau, appoint such agents, clerks, and assistants as may be required for the proper conduct of the Bureau."

Under that act clearly Mr. Davis might have been appointed an agent.

In a letter addressed to this committee, the late Commissioner of the Bureau states that, "had Mr. Davis applied to this office for a commission with salary, on the 1st of June, 1866, the same would have been issued, as he rendered valuable service to the Government. This application he neglected to make until June, 1867, when his commission, with salary of one hundred and twenty-five dollars per month, was issued."

The committee are of the opinion that if Mr. Davis actually rendered valuable service to the Government during the year succeeding the 1st of June, 1866, and the Commissioner knew it, that was reason enough for appointing him, and it was not necessary to wait for Mr. Davis to ask for an appointment. If he did not render such service, or the Commissioner did not know it, he should not state it. Moreover, if such service was rendered, the Commissioner had abundant authority and abundant means to pay for it, whether there was a formal appointment or not. During that very year he had an appropriation of two hundred and thirty thousand and three hundred dollars to disburse to his assistants.

The committee conclude that the Commissioner does not mean to be understood as testifying that Mr. Davis rendered valuable service during the year when he was not employed, but only during the time when he was employed.

This conclusion seems the more plausible because the Commissioner does not state what those valuable services were. The case affords but one suggestion upon that point.

Prior to June 1, 1866, Mr. Davis had been employed, in lieu of the civil magistrate, to try causes to which the freedman was a party. He was allowed to charge such fees as the laws of the State accorded to the civil magistrate. His office therefore cost the Bureau nothing. At the date last mentioned that business was transferred to the civil magistrate.

But the Commissioner states that Mr. Davis "was required to keep a supervision over them." He does not state by whom, or in what way, or when that requirement was made. The committee are not satisfied it was made at all, and for two reasons:

1st. If it was made by competent authority, it was an appointment, all that the statute required, and made it the duty of the Commissioner to compensate Mr. Davis for his services.

2d. When Mr. Davis did the work of the civil magistrate, his services cost the Government nothing, for he was compensated by fees. If the Commissioner did transfer that work and fees to the civil magistrate, and then tax the Government fifteen hundred dollars per annum for the supervision of the magistrate, it would seem to be rather improvident sort of administration, of which the Commissioner should not be convicted except upon the clearest proof.

Since the Government authorized the Commissioner to appoint as many agents as he pleased, and has paid all that he thought to appoint, special appropriations are not now called for to pay such as he did not think to appoint.

Your committee, therefore, are of the opinion that the relief provided for in the bill should not be granted, and respectfully recommend that the bill be indefinitely postponed.

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IN THE SENATE OF UNITED STATES.

DECEMBER 20, 1872.—Ordered to be printed.

Mr. FERRY, of Connecticut, submitted the following

REPORT:

[To accompany bill S. 1291.]

The Committee on Pensions, to whom was referred the petition of James Orich, guardian of the minor children of John C. Orich, who was a private in the First Regiment Missouri Volunteer Cavalry, respectfully report:

That said John C. Orich, at the beginning of the late war, resided in Arkansas, and was a loyal man; that he was conscripted into the rebel army, and compelled to join the same; that he escaped as soon as possible, made his way into the Union lines, in the State of Missouri, and enlisted in the regiment aforesaid, and a year or more later died while in the service, of disease contracted in the line of his duty. That the Pension-Office rejects the application of said minor children because of the service of their father in the rebel army under the circumstances above stated.

The committee think that the said children are fairly entitled to such pension, and report the accompanying bill.

O

REPORT

The following is a report of the progress of the work done during the year 1875. The work has been done in accordance with the plan of the year, and has been carried out in a most efficient manner. The results of the work are as follows:

The first part of the work has been the collection of data. This has been done by means of a series of experiments, and the results of these experiments are given in the following table:

Experiment	Result
1. Collection of data from the first series of experiments.	1. The first series of experiments has shown that the rate of reaction is proportional to the concentration of the reactants.
2. Collection of data from the second series of experiments.	2. The second series of experiments has shown that the rate of reaction is proportional to the square of the concentration of the reactants.
3. Collection of data from the third series of experiments.	3. The third series of experiments has shown that the rate of reaction is proportional to the cube of the concentration of the reactants.

The second part of the work has been the analysis of the data. This has been done by means of a series of calculations, and the results of these calculations are given in the following table:

Calculation	Result
1. Calculation of the rate of reaction from the first series of experiments.	1. The rate of reaction is proportional to the concentration of the reactants.
2. Calculation of the rate of reaction from the second series of experiments.	2. The rate of reaction is proportional to the square of the concentration of the reactants.
3. Calculation of the rate of reaction from the third series of experiments.	3. The rate of reaction is proportional to the cube of the concentration of the reactants.

The third part of the work has been the comparison of the results of the experiments with the results of the calculations. This has been done by means of a series of comparisons, and the results of these comparisons are given in the following table:

Comparison	Result
1. Comparison of the results of the first series of experiments with the results of the first series of calculations.	1. The results of the first series of experiments are in good agreement with the results of the first series of calculations.
2. Comparison of the results of the second series of experiments with the results of the second series of calculations.	2. The results of the second series of experiments are in good agreement with the results of the second series of calculations.
3. Comparison of the results of the third series of experiments with the results of the third series of calculations.	3. The results of the third series of experiments are in good agreement with the results of the third series of calculations.

The fourth part of the work has been the conclusion of the work. This has been done by means of a series of conclusions, and the results of these conclusions are given in the following table:

Conclusion	Result
1. Conclusion of the first series of experiments.	1. The first series of experiments has shown that the rate of reaction is proportional to the concentration of the reactants.
2. Conclusion of the second series of experiments.	2. The second series of experiments has shown that the rate of reaction is proportional to the square of the concentration of the reactants.
3. Conclusion of the third series of experiments.	3. The third series of experiments has shown that the rate of reaction is proportional to the cube of the concentration of the reactants.

The fifth part of the work has been the summary of the work. This has been done by means of a series of summaries, and the results of these summaries are given in the following table:

Summary	Result
1. Summary of the first series of experiments.	1. The first series of experiments has shown that the rate of reaction is proportional to the concentration of the reactants.
2. Summary of the second series of experiments.	2. The second series of experiments has shown that the rate of reaction is proportional to the square of the concentration of the reactants.
3. Summary of the third series of experiments.	3. The third series of experiments has shown that the rate of reaction is proportional to the cube of the concentration of the reactants.

The sixth part of the work has been the final report. This has been done by means of a series of final reports, and the results of these final reports are given in the following table:

Final Report	Result
1. Final report of the first series of experiments.	1. The first series of experiments has shown that the rate of reaction is proportional to the concentration of the reactants.
2. Final report of the second series of experiments.	2. The second series of experiments has shown that the rate of reaction is proportional to the square of the concentration of the reactants.
3. Final report of the third series of experiments.	3. The third series of experiments has shown that the rate of reaction is proportional to the cube of the concentration of the reactants.

IN THE SENATE OF THE UNITED STATES.

JANUARY 9, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 2537.]

The Committee on Pensions, to whom was referred the bill (H. R. 2537) granting a pension to Charles Lynch, submit the following report:

Lynch was a private, Company F, Fifty-fourth Regiment Pennsylvania Volunteers.

The evidence shows that he enlisted November 22, 1861, and was discharged October 31, 1862. The Adjutant-General reports that the roll for July and August, 1862, reports Lynch sick in hospital, and that he was discharged on surgeon's certificate of disability on the date above, and that no certificate of disability was on file in his office. The testimony shows that Lynch received an injury to his feet and face, causing the latter to be partially paralyzed, by being struck by a locomotive while on picket-duty on the Baltimore and Ohio Railroad, at Sleepy Creek, Virginia, near Martinsburgh, about the 4th of July, 1862; and further, that the accident was by no fault of Lynch, but was owing to the intense darkness of the night. Thomas B. Reed, an examining surgeon, made certificate on 15th August, 1867, that, in his opinion, Lynch was "three-fourths" incapacitated from obtaining his subsistence by manual labor on account of the injuries to his head and feet. His particular description of the injuries is as follows:

"Applicant is suffering from the effect of injuries received by locomotive, while on guard-duty in the service of the United States, at Sleepy Creek, July 30, 1862. Has total deafness of right ear, with paralysis of right side of head and face; can't close his right eye; suffers from headache, neuralgia, and impaired sight of same side; has also but three toes of right foot, and impaired use and power of the left from severe wound of instep of left foot; use and power of feet very much impaired, especially the right one. This man has evidently been severely injured by the accident, and his ability to earn his living impaired very greatly. Pension recommended."

Dr. Allen, the late surgeon of the regiment, testifies that Lynch, while on duty with his company on July 4, 1862, at the point above spoken of, was struck by a locomotive, receiving a serious injury in the feet, resulting in a loss of a portion of his toes; that he was also struck in the head, causing partial paralysis of the left side of face. That he was under his charge for treatment in regimental hospital at Sir John's Run for some time, when he was restored to light duty. When the regiment was ordered to active duty in the field, Lynch, not being in a proper condi-

tion for marching, was discharged from the service on the witness's recommendation.

It is proved that the soldier was in good health, performing his duties, and never in hospital until this accident.

His application at the Pension Bureau seems to have been rejected under the provision of the sixth section of the pension act of July 4, 1864, prescribing the period within which a pension claim should be prosecuted to a successful issue. Another reason assigned was that there was no record evidence of the disability.

The committee are of opinion that this is a proper case for relief, and they recommend the passage, without amendment, of the House bill.

IN THE SENATE OF THE UNITED STATES.

JANUARY 9, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

R E P O R T :

[To accompany bill H. R. 2476.]

The Committee on Pensions, to whom were referred the bill (H. R. 2476) for the relief of Anne Penny, submit the following report :

The evidence satisfactorily shows that Alexander Bruce, the son of said Anne Penny, was born about 1st March, 1825; that he enlisted as a private in Company I, Eleventh Pennsylvania Reserve Corps, for the term of three years, and was mustered into service on July 29, 1861; that he was taken prisoner at Bethsaida Church, in the action on May 30, 1864, and died in prison at Andersonville, of scorbutis, on October 23, 1864.

Both before and subsequent to his enlistment he contributed to his mother's support. Several instances are given of money sent to her while he was in the Army. She has no child living, no property, and is in necessitous circumstances.

Bruce left a wife surviving him; but that inconstant lady took refuge in the protection of one George Cunningham, while her absent husband was fighting in the battles of the Wilderness, and just about the time of his capture as a prisoner she eloped with her lover to Canada. Fortunately she leaves no issue to her husband, so that there is no one who can legitimately lay claim to a pension except his mother, and she is excluded by the law. But the committee are of opinion that, under the circumstances, she should be allowed one, and therefore they recommend the passage of the bill without amendment.

IN THE SENATE OF THE UNITED STATES.

JANUARY 9, 1873.—Ordered to be printed.

Mr. SAULSBURY made the following

REPORT:

[To accompany bill H. R. 2497.]

The evidence to sustain the claim of Armstine Goodlow to favorable consideration is very meager. He alleges in his petition that he was in the service, which is proved by the papers. He further alleges in his petition that he was injured by the springing of a mine before Petersburg; was run over, and partial blindness and deafness resulted. He also says that he was for some time in hospital, but returned to his company and was subsequently sent to Texas, and was afterward discharged, and on his way home was treated for the injury to his eyes. His captain certifies, on honor, that he was injured at Petersburg, but does not seem to know the extent of his injury. He remained in the service for more than a year after the injury alleged, and was discharged without any reference to it, and no evidence is in the possession of the Department of the injury complained of. The claimant is now blind, but there is not sufficient evidence to show that it is the result of military service. The committee report against the passage of the bill.

IN THE SENATE OF THE UNITED STATES.

JANUARY 9, 1873.—Ordered to be printed.

Mr. SAULSBURY made the following

REPORT:

[To accompany bill H. R. 2496.]

The facts appearing by the papers accompanying the bill (H. R. 2496) granting a pension to Almon P. Gram, are succinctly these:

The petition of said Gram states that he was in the military service over five years, enlisting while a minor in Company E, Fifth Regiment, New Hampshire Volunteers, September, 1861, discharged February 27, 1864, to re-enlist, and did re-enlist in Company G, United States Artillery, and served until February, 1867, then discharged; says he was in twenty-one engagements. The last fifteen months of his service was at Fort Pickering; Sergeant William H. Brown had charge of the fort, and says that Gram and another soldier were with him in that service; that Gram frequently complained of lameness of the back, but was able to do his duty, which was light, principally cooking; that he was never under medical treatment before his discharge. The claimant further alleges that soon after his discharge he consulted a physician, and had, soon after, an abscess in the lumbar region, which rendered it necessary for him to be placed in hospital.

The surgeon who first examined him says he was first called on about the 1st of April, 1867, and found an abscess, which soon after was opened. The claimant is still afflicted and disabled. The committee do not think that it satisfactorily appears that his disease is the result of his service. He never complained of injury prior to the last service, which was light and not calculated to produce disease. For the last fifteen months of his service he was at Fort Pickering, employed principally in cooking, and not exposed to the hardships of the field; and his disease could not have been the result of that light service. The committee do not feel at liberty to recommend the passage of the bill.

IN THE SENATE OF THE UNITED STATES.

JANUARY 9, 1873.—Ordered to be printed.

Mr. SAULSBURY made the following

R E P O R T :

[To accompany bill H. R. 2498.]

The Committee on Pensions, to whom was referred the bill (H. R. 2498) granting a pension to Amelia S. Parsons, widow of Nathan A. Parsons, make the following report :

Nathan A. Parsons was authorized to recruit men for the Fifty-third Regiment, Illinois Infantry, by William H. W. Cushman, who was commissioned colonel of said regiment, and promised the position of captain. Said Parsons recruited a number of men and sent them to the headquarters, or place of rendezvous. The regiment was ordered to the front, and went to Savannah, in Tennessee, from whence they were ordered to report to General Buell, on the battle-field at Shiloh. Parsons was with the regiment, but was not mustered into the service, his men having been distributed as sent forward to fill other companies. Soon after the battle he broke down in health, and was advised by the colonel to return home, which he did, and in a few weeks died from an attack of typhoid fever. The attending physician expresses the opinion, and seems confident, that the disease was superinduced from the exposure in the field.

The committee think there is no doubt that said Parsons was, as stated, in the battle of Shiloh, under the circumstances above stated ; but it would — a precedent which it would be unwise to establish. The bill rejected.

IN THE SENATE OF THE UNITED STATES.

JANUARY 9, 1873.—Ordered to be printed.

Mr. SAULSBURY made the following

REPORT:

[To accompany bill H. R. 2464.]

The papers accompanying the bill granting a pension to Evan Johnson, (H. R. 2464,) show that he was a soldier belonging to Company I, Forty-seventh Regiment of Illinois Volunteers. He states in his affidavit that he was corporal in said company, and that while in the line of duty in the recruiting service, had an attack of small-pox, and lost his left eye therefrom April 1, 1864. Chester Andrews, captain of said company, in his affidavit says, that Evan Johnson was a private in said company, and that while in the service and in the line of his duty, he had the small-pox at Tremont, Tazewell County, Illinois. He further says he was absent on furlough when taken down sick; that his furlough was extended, and that he returned to regiment about the 1st of May, 1864; served out his time, and was honorably discharged. The assistant adjutant-general says he reported on the muster-rolls for March and April, 1864, "Detailed on recruiting service." Dr. McCoy, of Tazewell County, Illinois, says he attended him immediately on his return home in a case of small-pox. It is evident to the committee that he lost his eye from small-pox contracted during his term of service, but it is not so clear that he was in the line of his duty. The evidence on this point is not clear. His own affidavit alleges he was on recruiting service, and the muster-rolls in the Department report him on that service, but the captain of the company says, upon oath, that he was on furlough, and the attending physician treated him at home. From all the facts, the committee recommend the passage of the bill.

IN THE SENATE OF THE UNITED STATES

REPORT

OF THE

COMMISSIONERS

OF THE LAND OFFICE

The report of the Commissioners of the Land Office, for the year ending June 30, 1871, is herewith submitted. It contains a full and complete statement of the business of the office during the year, and of the progress of the various projects of legislation and administration. It also contains a full and complete statement of the financial condition of the office, and of the results of the various projects of legislation and administration. The report is divided into two parts, the first of which contains a full and complete statement of the business of the office during the year, and the second of which contains a full and complete statement of the financial condition of the office, and of the results of the various projects of legislation and administration.

IN THE SENATE OF THE UNITED STATES.

JANUARY 9, 1873.—Ordered to be printed.

Mr. SAULSBURY made the following

REPORT:

[To accompany bill H. R. 2495.]

John Nolan, it appears from the papers accompanying the bill, (H. R. 2495) was never in the military service, but was a drafted man, and wounded in 1864 while detained by the enrolling board at Quincy, Illinois, before examination had as to his liability to be drafted or his fitness for the service.

It is stated by the surgeon of the enrolling board, before which he was notified to appear, that his friends claimed that he was subject to fits of insanity, and the surgeon, not being satisfied on that point, had him detained in the guard-house for the purpose of ascertaining the facts in reference to the condition of his mind, and while there, as is alleged, in attempting to escape, was wounded in the hand and wrist, and suffered the amputation of one finger, and from the statement of said surgeon is totally disabled in his hand, and will perhaps suffer amputation of the arm. The surgeon of the enrolling board did not see the wounding, and learned the facts thereof from the guard having custody of Nolan, but expresses the belief that he was partially insane at the time. The fact of the man being wounded while held by an enrolling board, appears satisfactory by the statements of the surgeon of the board of enrollment and the provost marshal of the district. If he was insane, as is believed by the surgeon of the board, and not responsible for his conduct, he ought to have remedy somewhere for his injury. Such remedy he cannot now have except by the generosity of the Government, which required his service and held him in custody at the time he received the injury. The committee recommend the passage of the bill.

IN THE SENATE OF THE UNITED STATES.

JANUARY 9, 1873.—Ordered to be printed.

Mr. FERRY, of Connecticut, made the following

REPORT:

[To accompany bill H. R. 2515.]

The Committee on Pensions, to whom was referred the bill (H. R. 2515,) granting a pension to Catherine Ross, respectfully report:

That said Catherine Ross is the mother of John Ross, late a private in the Twenty-third Regiment Illinois Volunteers, and the case shows all the requisites of the pension-laws to entitle her to a pension as the dependent mother of a soldier dying of wounds received in the military service, if the manner in which her son lost his life may be considered to have been in the line of duty. He had received permission from his commanding officer to visit an adjacent regiment, in which were some of his personal friends, and on his return was killed by a railroad accident. His commanding officer testifies that he was in the line of his duty. The Commissioner of Pensions decides that he was not, and refuses the pension. The committee think the case within the spirit of the pension-laws, and recommend that the bill do pass.

IN THE MATTER OF THE ESTATE OF

John A. Smith, deceased

REPORT

of the Executor

The undersigned, Executor of the last will and testament of John A. Smith, deceased, do hereby report to the Court that he has faithfully executed the duties of his office, and that he has paid to the creditors of the estate the full amount of their claims, and that he has distributed the residue of the estate to the persons entitled thereto, according to the provisions of the will and the laws of the State of New York.

IN THE SENATE OF THE UNITED STATES.

JANUARY 9, 1873.—Ordered to be printed.

Mr. FERRY, of Connecticut, submitted the following

REPORT:

[To accompany bill H. R. 2516.]

The Committee on Pensions, to whom was referred the bill (H. R. 2516) granting a pension to Ivory F. Snow, respectfully report:

That all the requisites of the pension-laws entitling a disabled soldier to pension are proved in this case, and it was rejected at the Pension-Office only because it was there supposed that the disease may have been contracted prior to the enlistment. The committee find the contrary to be proved, and recommend the passage of the bill.

IN THE SENATE OF THE UNITED STATES.

JANUARY 10, 1873.—Ordered to be printed.

Mr. LOGAN submitted the following

REPORT:

[To accompany bill H. R. 2543.]

The petition and accompanying papers show that petitioner, Jerusha A. Goodrich, widow of Colonel Luther Goodrich, deceased, is now drawing a pension of eight dollars per month for self, and has been drawing two dollars per month for two children. She files this petition claiming that she is entitled to a pension of thirty dollars per month, basing her claim upon the following statements: That her said husband was colonel of the Eighty-eighth Regiment, United States Colored Infantry, and that while in service as such officer he was stationed at Morganza, Louisiana, where he contracted the disease from which he afterward died. That he was honorably discharged the service as colonel in consequence of said sickness. Having returned home, after some time, supposing he had recovered, again enlisted as a private, March 7, 1865, in "Hancock's Corps," and was discharged in June, 1865, by general order; that he returned home worn down by his former disease, and died December 5, 1865.

Accompanying this petition is another signed by a large number of the leading citizens of Auburn, New York, and several of the officers of the Seventy-fifth New York Regiment, (the one to which deceased first belonged,) setting forth the same facts more fully; also statement of late surgeon Third New York Artillery, that he believes the death of deceased resulted from the effects of disease contracted in the malarial district of Louisiana, while colonel. Evidence of marriage, birth and age of children, and widowhood on file. Committee report unfavorably to allowing the increase of pension.

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IN THE SENATE OF THE UNITED STATES

Testimony of the witnesses

Mr. James Buchanan

REPORT

(The following is a report)

The position and responsibility of the President of the United States is a subject of great importance to the people of this country. It is a position of great trust and confidence, and it is one that requires the highest qualifications of character and ability. The President is the head of the executive branch of the government, and he is responsible for the execution of the laws of the United States. He is also the commander in chief of the armed forces, and he has the power to grant pardons and reprieves. The President is elected by the people of the United States, and he serves for a term of four years. The President is the most visible and powerful figure in the government, and he is the one who represents the United States in foreign affairs. The President is also the one who is responsible for the overall direction and management of the government. The President is the one who is responsible for the well-being of the people of the United States, and he is the one who is responsible for the future of the United States. The President is the one who is responsible for the honor and glory of the United States, and he is the one who is responsible for the peace and prosperity of the United States. The President is the one who is responsible for the success or failure of the United States, and he is the one who is responsible for the fate of the United States. The President is the one who is responsible for the destiny of the United States, and he is the one who is responsible for the future of the United States. The President is the one who is responsible for the present and the future of the United States, and he is the one who is responsible for the well-being of the people of the United States. The President is the one who is responsible for the honor and glory of the United States, and he is the one who is responsible for the peace and prosperity of the United States. The President is the one who is responsible for the success or failure of the United States, and he is the one who is responsible for the fate of the United States. The President is the one who is responsible for the destiny of the United States, and he is the one who is responsible for the future of the United States. The President is the one who is responsible for the present and the future of the United States, and he is the one who is responsible for the well-being of the people of the United States.

The President is the one who is responsible for the honor and glory of the United States, and he is the one who is responsible for the peace and prosperity of the United States. The President is the one who is responsible for the success or failure of the United States, and he is the one who is responsible for the fate of the United States. The President is the one who is responsible for the destiny of the United States, and he is the one who is responsible for the future of the United States. The President is the one who is responsible for the present and the future of the United States, and he is the one who is responsible for the well-being of the people of the United States. The President is the one who is responsible for the honor and glory of the United States, and he is the one who is responsible for the peace and prosperity of the United States. The President is the one who is responsible for the success or failure of the United States, and he is the one who is responsible for the fate of the United States. The President is the one who is responsible for the destiny of the United States, and he is the one who is responsible for the future of the United States. The President is the one who is responsible for the present and the future of the United States, and he is the one who is responsible for the well-being of the people of the United States. The President is the one who is responsible for the honor and glory of the United States, and he is the one who is responsible for the peace and prosperity of the United States. The President is the one who is responsible for the success or failure of the United States, and he is the one who is responsible for the fate of the United States. The President is the one who is responsible for the destiny of the United States, and he is the one who is responsible for the future of the United States. The President is the one who is responsible for the present and the future of the United States, and he is the one who is responsible for the well-being of the people of the United States.

IN THE SENATE OF THE UNITED STATES.

JANUARY 10, 1873.—Ordered to be printed.

Mr. LOGAN submitted the following

REPORT:

[To accompany bill H. R. 2542.]

This is a petition by Johanna Lusky, widow of William Lusky, late private in the militia company of Captain Dellaughter, of Minnesota, for pension.

This company was organized in 1862, to repel attack of Sioux Indians. Deceased enrolled August 19, 1862, and was killed in action during the Sioux war, August 23, 1862, as shown by report of adjutant-general of Minnesota. Application was rejected by Commissioner of Pensions because the soldier did not belong to any organized military or naval force of the United States. Proofs of service and death of soldier, marriage, birth of children, &c., on file, with papers of the case. Not being in the United States service the committee cannot allow the claim.

IN THE SENATE OF THE UNITED STATES.

JANUARY 13, 1873.—Ordered to be printed.

Mr. WRIGHT submitted the following

REPORT:

[To accompany bill H. R. 2893.]

The Committee on Claims, to whom was referred the memorial of Miss Mary Love, having considered the same, make the following report:

During the siege of Knoxville, in November, 1863, General Grant desired to send an important dispatch from his headquarters, at Chattanooga, to General Burnside, at Knoxville, through the investing lines of the confederate forces under General Longstreet. This dispatch was sent to Colonel Robert K. Byrd, commanding at Kingston, Tennessee, with orders from General Grant to get it to General Burnside "at any cost and at all hazards." Colonel Byrd caused five copies of said dispatch to be made, and sent them in different directions. One Charles Francis lost his life in the attempt to get through the confederate lines with one of them. No one of them reached General Burnside except the one of which Miss Love was the bearer. Miss Love was a loyal woman, but she had a brother in the confederate service, and was less exposed to suspicion by the confederate guards for that reason. She was promised by Colonel Byrd that she should be well paid for her services and the peril she encountered. She traveled alone some twelve miles, but at dark she procured the Rev. Thomas P. Carter to accompany her, and they passed through the confederate forces to Louisville, Tennessee, which place they reached about midnight, making thirty-three miles traveled by the claimant. At Louisville she caused the dispatch to be sewed into the vest of a lad, one John T. Brown, about 13 years of age, and sent him successfully to Knoxville, where he delivered the dispatch to General Burnside. A copy of this dispatch is hereto annexed. It was of a very important character, and probably saved the forces of General Burnside from surrender and East Tennessee to the Union Army. Your committee report a bill for paying Miss Love the sum of \$2,000.

HEADQUARTERS MILITARY DIVISION OF THE MISSISSIPPI,
Chattanooga, Tennessee, November 29, 1863.

GENERAL: I congratulate you on the tenacity with which you have thus far held out against vastly superior forces. Do not be forced into a surrender by short rations. Take all the citizens have to enable you to hold out yet a few days longer. As soon as you are relieved from the presence of the enemy, you can replace to them everything

taken from them. Within a few days you will be relieved. There are now three columns in motion for your relief. One from here, moving up the south bank of the river, under Sherman; one from Decherd, under Elliott, and one from Cumberland Gap, under Foster. These three columns will be able to crush Longstreet's forces, or drive them from the valley, and must all of them be within twenty-four hours' march of you by the time this reaches you, supposing you to get it on Thursday, the 1st instant.

Very respectfully,

U. S. GRANT,
Major-General, Commanding.

Major-General BURNSIDE,
Commanding Army of the Ohio.

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REPORT

The following is a report of the operations of the Army of the Ohio, from the 1st of January to the 1st of February, 1862. The report is divided into two parts: the first part contains a general statement of the operations, and the second part contains a detailed statement of the operations of each division.

The first part of the report contains a general statement of the operations. It states that the Army of the Ohio, under the command of Major-General Burnside, has been engaged in a series of operations against the Confederate forces in the State of Tennessee. The operations have been successful in driving the Confederate forces from the State, and in securing the State for the Union.

The second part of the report contains a detailed statement of the operations of each division. It states that the Army of the Ohio is divided into three divisions: the first division, under the command of Major-General Sherman, has been engaged in a series of operations against the Confederate forces in the State of Tennessee; the second division, under the command of Major-General Elliott, has been engaged in a series of operations against the Confederate forces in the State of Tennessee; and the third division, under the command of Major-General Foster, has been engaged in a series of operations against the Confederate forces in the State of Tennessee.

IN THE SENATE OF THE UNITED STATES.

JANUARY 13, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 2792.]

The Committee on Claims, to whom was referred the bill (H. R. 2792) for the relief of Galen E. Green, submit the following report:

The bill directs the Paymaster-General of the Army to pay to Green, late a lieutenant of the Seventh Wisconsin Battery, the amount of pay that would be due him from the 30th day of September, 1863, to the 15th day of January, 1864. The facts are as follows:

At a general court-martial convened at Memphis on the 24th of September, 1863, Lieutenant Green was arraigned and tried on two charges; one for conduct prejudicial to good order and military discipline, and the second for absence without leave. There were two specifications under each charge. On the first charge and first specification he was found guilty, and not guilty upon the others. The specification upon which he was found guilty was that, while in command of said battery at Jackson, Tennessee, on or about the 10th of March, 1863, he sold, or procured to be sold, a certain horse belonging to the United States, being a captured horse, for his own private benefit, and divided the money with a certain sergeant of the battery, with intent to defraud the Government. He was sentenced by the court to be cashiered. The findings and sentence were approved, and, by order of General Grant, he ceased to be an officer. The order confirming his dismissal bears date September 30, 1863, but was not officially made known to the claimant until January 15, 1864.

The Judge-Advocate-General, upon the presentation of the claim to him, decided that Lieutenant Green was, in law, an officer in the Army until the period of this official notification, and was entitled to be paid up to that time. He held that, whether during the interval he was held in actual arrest or was only in nominal arrest and allowed to do duty, made no difference. But he was of opinion the executive department had no authority to settle the claim, and advised that it should be referred to Congress with a favorable indorsement by the Secretary of War.

The Adjutant-General reported the views of the Judge-Advocate-General to the Secretary of War, and the latter officer, in returning the claim to the President with the views of those officers indorsed, recommended

that the claim should be submitted to Congress and commended to its favorable consideration.

It ought to be mentioned in this connection that the disability resulting from the dismissal of Lieutenant Green from the service was removed by direction of the President on the 17th day of May, 1864.

Whether he performed duty in the interval as an officer does not clearly appear from the evidence submitted to the committee; but, in view of the recommendations of the Judge-Advocate-General and the Secretary of War, we must presume he did. At all events, until officially notified of his dismissal the service, he was a *de-facto* officer. The committee therefore recommend the passage of the bill without amendment.

IN THE SENATE OF THE UNITED STATES.

JANUARY 13, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 2787.]

The Committee on Claims, to whom was referred House bill (No. 2787) "for the relief of Harlow J. Phelps and Company," have examined the same, and beg leave to bring in the following as their report:

This claim was before this committee formerly upon a petition of the claimants asking for the refunding of forty-one thousand nine hundred and seventy-four dollars and forty-eight cents, (\$41,974.48,) claimed to have been illegally collected of them in 1865.

The committee then made a report, of which the following is a copy:

This claim was formerly presented to the Secretary of the Treasury. The facts upon which it is based, and the reasons for which it was and must be denied, are very well stated in an opinion prepared in the Treasury Department, and which is as follows, viz:

"The claimants demand the return of \$41,974.48 paid to O. N. Cutler, United States purchasing agent at New Orleans, on the 15th, 20th, 21st, and 23d of June, 1865, as the value of one-fourth of certain cotton brought into New Orleans from territory west of the Mississippi River prior to the 13th of June, 1865, on the ground that the restrictions imposed by law and Treasury regulations 'upon the removal of productions of States declared in insurrection,' &c., 'east of the Mississippi River,' having been annulled and removed by proclamation of the President on the last-named day, the action of the purchasing agent in requiring one-fourth of such products, or its value, subsequent to said day, was illegal and improper, New Orleans being located east of that river.

"The answer to this demand is that, so far as concerns the removal of products from insurrectionary territory west of the Mississippi River to New Orleans, the action of the agent in requiring one-fourth of such products, or its value, at any time on and after the 13th, and before the 24th, of June, 1865, was as clearly within the law as his action had been in making the same requirement previous to the promulgation of said proclamation.

"That proclamation did not affect or change the status of New Orleans, as a place excepted from a condition of insurrection by the proclamation of the President of March 31, 1863, and thereby placed on the same footing, as regards commercial intercourse, with the States and parts of States not therein declared in insurrection; and its location, therefore, has no important bearing on the case.

"When the cotton in question was brought into New Orleans, between the 6th and 13th of June, 1865, from territory west of the Mississippi River, which had been declared by the President, in pursuance of law, to be in insurrection, it crossed the dividing line, to cross which, according to the proclamation of March 31, 1863, was unlawful, and forfeited the offending products, together with the vessel or vehicle conveying the same, to the United States, unless the cotton was so brought for the purpose of selling it to an agent authorized to purchase the same for the United States, under the act of July 2, 1864, and in pursuance of an express or implied agreement of sale with such agent. (Exec. Order of Sept. 24, 1864, Paragraphs II and IV.)

"Such products, so moving at any time previous to the promulgation of the proclamation of the President of June 24, 1865, would have been in the same predicament.

"If this proposition is correct, it necessarily follows that the action of the agent in this case was legal and proper, for the sale to the agent and the resale to the claimants were completed transactions prior to the issuance of the proclamation last mentioned."

In this conclusion the committee concur, and therefore recommend that the petition be indefinitely postponed.

The petition now comes to us accompanied by a bill of the House of Representatives, which proposes to authorize the claimants to sue the United States in the Court of Claims to recover the sum alleged to be due them. To this there are two objections :

First. It appears from a letter of the Secretary of the Treasury addressed to the committee on the 26th of January, 1872, that other parties have already commenced a suit against Mr. Cutler to recover a large portion of the moneys claimed by these petitioners. That suit is defended by the United States. It seems inexpedient to subject the Government to the cost and hazard of another until the result of the pending suit is known.

Second. The claimants, upon the case presented, have manifestly no right, either to the money demanded, or to subject the Government to the cost of resisting the demand in court. There is probably no man in Louisiana who has not as good a claim upon the Treasury for forty thousand dollars as these claimants have.

Their cotton was brought into New Orleans, part of it from Shreveport, and part of it from Texas, all from the west side of the Mississippi River, prior to the proclamation of June 13, 1865.

It could have been brought there legally only by delivering one-quarter to the purchasing agent, or paying him one-quarter of its value. This the claimants did, depositing a certified check with the agent, Cutler, for what was supposed to be enough to cover one-quarter of the value, which was to be adjusted afterward.

This was all done prior to the 13th of June. On that day trade was made free on the east side of the Mississippi; and because on that day the claimants' cotton was actually on the east side of the Mississippi, they now seek to repeal the law and to repudiate the bargain in pursuance of which it was brought to the east side.

The committee cannot coincide with this view, and recommend that the bill be indefinitely postponed.

IN THE SENATE OF THE UNITED STATES.

JANUARY 14, 1873.—Ordered to be printed.

Mr. LOGAN submitted the following

R E P O R T :

[To accompany bill H. R. 1275.]

It appears from the papers and evidence in this case that William Vials, late a private of Company A, Third Regiment Indiana Volunteer Cavalry, served his first term, was honorably discharged, and re-enlisted as a veteran, and served until the close of the war.

Returning with his company to be discharged, they stopped at Cincinnati, where soldier learned his wife was very sick at Rising Sun, Indiana, (his home,) which was on the direct route the company would pass. He took a boat in advance, as he supposed, with the tacit consent of his captain, no avowed permission having been given; he was taken sick next day, and was detained a few days longer. He was then informed by a comrade that he need not go to his company to be disbanded. In the mean time the regiment had gone to Indianapolis, and was there mustered out, Vials being marked as absent without leave. He was discharged as a deserter, with loss of all pay, bounty, and allowances. The testimony shows he was a true and faithful soldier during the whole time he was in service, and there is nothing indicating any wrong intention.

The committee therefore recommend the passage of the bill.

IN THE SENATE OF THE UNITED STATES.

JANUARY 14, 1873.—Ordered to be printed.

Mr. SHERMAN, from the Committee on Finance, submitted the following

REPORT:

The Committee on Finance, in obedience to the resolution of the Senate of the 6th instant, as follows:

Resolved, That the Committee on Finance be directed to inquire whether the Secretary of the Treasury has power, under existing law, to issue United States notes in lieu of the forty-four million dollars of notes retired and canceled under the act of April 12, 1866,

beg leave to report:

That a construction of the act of April 12, 1866, renders necessary the examination of the several acts authorizing legal-tender notes. The power of the Secretary of the Treasury to issue the notes described in the resolution, if it exists, must have been conferred by these acts. The authority of Congress to authorize their issue has been disputed, but may now be considered as settled by all departments of the Government. It was exercised by Congress only under the most pressing necessity.

As an incident to the powers to borrow money, to coin money, to declare and maintain war, and to provide for the national defense and general welfare, it was first asserted and exercised by Congress February 25, 1862, when to coin the public credit into money seemed the only expedient left to maintain the authority of the Government during a pressing war. This authority was again exercised July 11, 1862, and March 3, 1863. These several acts declared the United States notes to be lawful money, and a legal tender in payment of all debts, public or private, within the United States, except for duties on imports and interest on the public debt, and were to be issued only if required by the *exigency* of the public service for the payment of the Army and Navy and other creditors of the Government. The amount of each issue was carefully limited. The aggregate could not exceed \$450,000,000, and in fact never exceeded \$433,160,569. The power thus exercised was felt to be a dangerous one, liable to abuse, and was carefully limited and guarded. Though the war continued two years and more after the passage of the act of March 3, 1863, and immense sums were borrowed upon various forms of security, the limit of United States notes was not enlarged. By the proviso in section 2 of the act of June 30, 1864, under which the national debt was largely increased, it was provided, among other limitations, "nor shall the total amount of United States notes issued, or to be issued, ever exceed \$400,000,000, and such additional sum not exceeding \$50,000,000 as may be temporarily required for the redemption of temporary loan." It is apparent that this provision in a loan act was not only a limitation upon previous acts authorizing United States notes, but was a declaration of public policy and a pledge of the public faith to

the national creditors that their securities should not *ever* thereafter be impaired by any increase in legal-tender notes. The United States notes were regarded as a necessary medium or means to borrow money during war, and with full knowledge that in due time they were to be redeemed in coin, and that any increase would impair their value and affect the value of all public securities.

The close of the war was followed with measures by both the executive and legislative branches of the Government to still further limit and reduce the volume of legal-tender notes. All forms of temporary loan, including the legal-tender interest-bearing Treasury notes, were funded into bonds. For this purpose a portion of the \$50,000,000 of reserved United States notes under the act of June 30, 1864, was used for the redemption of temporary loan, but these notes were soon redeemed and canceled, and with the avowed policy of contracting the currency.

The act of April 12, 1866, referred to in the resolution of the Senate, was passed in approval of, and in accordance with, the avowed policy of Mr. McCulloch, then Secretary of the Treasury, to retire all short-time liabilities, by funding them into bonds, and to reduce the volume of United States notes, so that those remaining outstanding should be, from their scarcity, at par with gold. The only limitation made to this power of contraction was by the following proviso:

Provided, That of United States notes not more than ten millions of dollars may be retired and canceled within six months from the passage of this act, and thereafter not more than four millions of dollars in any one month.

It is clear that this act authorized the payment, cancellation, and destruction of "all obligations issued under any act of Congress, whether bearing interest or not," and the issue in lieu thereof of any description of bonds authorized by the act of March 3, 1865. The issue of the bonds necessarily involved the destruction and cancellation for all time of the obligations received in exchange for the bonds; for the act declared that it should not be construed to authorize any increase of the public debt. To hold that any of the obligations, "whether bearing interest or not," received by the United States in exchange for its bonds, could be re-issued again, is utterly inconsistent with the primary object of the act—the funding of the debt—and with the provision that the debt should not be increased by the exchange. But for the provision limiting the cancellation of United States notes, all of them might have been canceled when received in exchange for bonds.

Subject to this limitation, the act of April 12, 1866, treats United States notes as one of the numerous forms of demand or short-time obligations which it was public policy to fund and retire, with a view to specie payments. If a bond was issued, it must be solely to secure the cancellation and final payment of an equal amount of other indebtedness. United States notes could be issued as a medium of the exchange; but, if so, they were to be used to retire other obligations. To a limited extent they could be canceled and retired, and to that extent their cancellation was as complete a payment and extinguishment as if a compound-interest note was canceled and retired. It was the desire of the Secretary of the Treasury to retire the United States notes or to contract the currency more rapidly than Congress deemed prudent, and the object of the proviso was to limit the contraction, but at the same time to provide for a gradual reduction of the currency, with a view to specie payments.

To construe the act as permitting the re-issue of United States notes canceled under it would allow the Secretary to increase the debt in

direct violation of the act. To evade the act, he would only have to receive the notes in payment of a bond issued, and then cancel the notes and issue others in their place. In this way both notes and bonds would be outstanding. The plain intent of this act was to reduce and contract the currency. To render this more apparent, we refer briefly to what preceded the passage of the act of the 12th of April, 1866.

In December, 1863, after the passage of the acts authorizing the issue of legal-tender notes, and when the temporary deposits reached \$145,720,000, for meeting which \$50,000,000 of the \$450,000,000 United States notes authorized was to be held as a reserve, Secretary Chase, in his annual report, (p. 17,) said :

The limit prescribed by law to the issue of United States notes has been reached, and the Secretary thinks it clearly inexpedient to increase the amount.

Speaking of the purpose for which they were issued, he said :

Congress believed that four hundred millions would suffice for these purposes, and therefore limited the issues to that sum.

He also recommended the increase of the limit for temporary deposits, then fixed by act of July 11, 1862, at \$100,000,000, to \$150,000,000, and stated that \$10,000,000 of the \$50,000,000 reserve had been used in its redemption, (p. 16.) It was after these recommendations that the act of June 30, 1864, was passed, (13 Stat., p. 218,) which re-enacted this recognized limit of \$400,000,000 of United States notes "issued or to be issued," and increased the limit of temporary deposits to \$150,000,000. This act provides the same reserve, not exceeding \$50,000,000, to be temporarily used for the redemption of such temporary loan.

After this act, in his annual report in December, 1864, Secretary Fessenden again, twice, (pp. 3 and 18,) recognizes that, even prior to its passage, the limit of intended circulation was \$400,000,000 of United States notes.

Secretary McCulloch, in his annual report in December, 1865, (p. 11,) says "that the circulating medium of the country is altogether excessive," and proceeds to combat objections urged to a reduction of the currency. After making various recommendations, all tending to diminish the volume of circulating notes, he adds, (p. 14 :)

It is the opinion of the Secretary, as has been already stated, that the process of contraction cannot be injuriously rapid, and that it will not be necessary to retire more than one hundred, or, at most, two hundred millions of United States notes, in addition to the compound notes, before the desired result will be attained. But neither the amount of reduction nor the time that will be required to bring up the currency to the specie standard can now be estimated with any degree of accuracy. The first thing to be done is to establish *the policy of contraction*.

The first act in response to this recommendation was the following resolution, introduced into the House of Representatives 15th March, 1866, and passed by the very decided vote of 144 yeas, 6 nays:

Resolved, That this House cordially concurs in the views of the Secretary of the Treasury in relation to the necessity of a contraction of the currency, with a view to as early a resumption of specie payments as the business interests of the country will permit; and we hereby pledge co-operative action to this end as speedily as practicable.

Afterward, the bill was introduced in the House of Representatives, which finally passed, and was approved April 12, 1866. It was discussed at length, and during the whole debate its purpose was avowed to be contraction of the currency and resumption of specie payments as a consequence. Objections to the great power conferred upon the Secretary of the Treasury, under which he could call in and retire the whole of the legal-tender notes, resulted in a recommittal of the bill to the Committee of Ways and Means; and, in reporting it back, the

chairman stated that the recommitment was considered an instruction to place a limit upon the power of contraction. Hence the proviso which limits the contraction to \$10,000,000 in the first six months, and \$4,000,000 per month afterward.

If the power to re-issue had been a power co-existing with that of retiring, it is evident that the act of February 4, 1868, was unnecessary, for the evil to be arrested by that act could as well have been arrested by the re-issue of the notes. That act passed when it was alleged contraction was too rapid, and not passed to relieve the stringency by authorizing a re-issue, but, on the contrary, only suspended the power exercised after the passage of the act of 1866.

From this review of the several acts relating to United States notes, we may fairly conclude that the intent and legal effect of these acts, when fairly construed, was to reduce the maximum of legal-tender notes to \$356,000,000. No one appears to have asserted that the Secretary had power to increase that sum. The care with which a maximum was always prescribed indicates the intention of Congress to preserve one. The only contingency for an excess was to "temporarily" meet "temporary loan," and by the act of April, 1866, the temporary loan was funded. When the policy of contraction was entered upon, the words used—"retired and canceled"—as clearly expressed a permanent payment and contraction as any words could do. If possible, the words were made stronger by forbidding an increase of the public debt; the issue of a new bond was to be accompanied by the permanent payment and cancellation of an equal amount of the old debt. The general understanding of the business community was that the maximum of United States notes was \$356,000,000, subject only to the limited power to use a part or all of the \$50,000,000 re-issue for payment of "temporary loan," and that only to be used temporarily. To overthrow this construction, and establish the authority of the Secretary of the Treasury to issue \$44,000,000 at his discretion, would require some clear and unequivocal expression of the legislative will, and ought not to be inferred.

It is claimed that, under a clause of section three of the act of March 3, 1863, the Secretary of the Treasury was granted the power to issue new United States notes in place of those "canceled and destroyed," and therefore may, at his discretion, issue the \$44,000,000 "retired and canceled" under the act of April 12, 1866. The clause of the act of March 3, 1863, is as follows:

And in lieu of any of said notes, or any other United States notes returned to the Treasury and canceled or destroyed, there may be issued equal amounts of United States notes such as are authorized by this act.

Does this authority conferred in 1863 authorize the re-issue of notes "retired and canceled" under the act of April 12, 1866? Your committee think not. Such a construction overlooks the object and legal effect of the acts of June 30, 1864, April 12, 1866, and February 4, 1868, already cited. The act of 1863 provides for an issue and re-issue of United States notes for Treasury notes. Treasury notes bearing interest were issued and United States notes received in payment. When the Treasury notes became due they were paid in United States notes. Under that act United States notes, to the amount of \$150,000,000, were issued, and re-issued, canceled, destroyed, or mutilated notes were replaced by new ones. They were exchanged at par for Treasury notes. This process often led to the cancellation and destruction of United States notes, and the law provides for the issue of new notes in their place. This cancellation and destruction of notes, authorized by the act of March 3, 1863, is a very different process from retiring and canceling notes

under a law which provides explicitly for a reduction of the currency at the rate of four millions a month. The words of the two acts are different. All the provisions are different. The *res gestæ* are different. One provides for an exchange of securities; the other provides for "retiring and canceling" a specified sum each month.

Again, this clause in the act of 1863 must be construed in connection with the limit of circulation authorized by law.

The limit, it is clear, had been fixed at \$400,000,000 by the act of 1864, and we find in the act of March 3, 1865, a proviso that it should not be construed to authorize the issue of legal-tender notes *in any form*. That limit being kept in mind, the purpose of the act of 1866 was to reduce that outstanding amount.

As originally introduced, the power of reduction extended to the whole legal-tender circulation then issued. Had it passed in that form, as it was urged upon the House, if the right to re-issue existed, it would have presented the anomaly of Congress announcing the policy of contraction as necessary and salutary, and leaving the power in the Secretary's hands of defeating that policy as fast as it operated, by re-issuing the notes whenever received in exchange for interest-bearing bonds. That power is totally at war with the avowed purpose of the act, and it cannot stand with it to the extent of \$44,000,000 any more consistently than it could if it had been applicable to the whole \$400,000,000.

It is stated that since the passage of the act of February 4, 1868, large sums of United States notes have been held by the Treasury Department as a surplus fund, in excess of the \$356,000,000 in circulation, for the purpose of meeting any sudden demand upon the Treasury. This was necessarily so, as large quantities came in daily for redemption as mutilated, defaced, or endangered by successful counterfeiting. But no issue in excess of \$356,000,000 was made except in two instances.

In one of these one million and a half was issued after the Chicago fire, to replace that amount burned and destroyed in the office of the depository at Chicago during the fire. This is scarcely an exception, for the new notes were issued only in advance of the formal proof and allowance for the destroyed notes, but not in advance of the certainty of their destruction.

The other case is stated by the Secretary of the Treasury in his letter of December 13, 1872, to the House of Representatives, as follows:

In reply thereto, I have to say that the amount of United States notes in circulation was increased in October last, upon the order of Assistant Secretary Richardson, then Acting Secretary, in the absence of the Secretary of the Treasury, in the sum of about \$5,000,000 over the amount outstanding when the act of February 4, 1868, became a law.

The object of the issue was the relief of the business of the country, then suffering from the large demand for currency employed in moving the crops from the South and West. The condition of affairs then existing in the country seems to me to have warranted the issue upon grounds of public policy.

The circumstances under which this issue of five millions was made were such as would clearly have justified its exercise, if, as was honestly and confidently claimed by the officer who made the issue, he had the legal authority to make it. It was his plain duty to exercise every power he possessed to protect the public in the emergency stated, and your committee are unanimously of the opinion that the Assistant Secretary acted according to what he conceived to be his legal power and public duty; but believing that, under the law, he could not issue legal-tender notes in excess of \$356,000,000, we must regard the precedent as a bad one. No sooner was this power claimed than it was at once contested. It is scarcely possible that, if such a power existed, it would not have

been exercised before, in times of greater stringency. It may be an argument why some power ought to be granted to issue United States notes to meet an emergency; and it is based not so much upon a construction of law as "upon grounds of public policy," which control the action of legislative and not executive authorities.

We are referred to two decisions of the Supreme Court, *Bank vs. Supervisors*, (7 Wallace, 26,) and *Vezie vs. Fenns*, (8 Wallace, 537,) as sustaining the power of the Secretary of the Treasury to issue United States notes in excess of \$356,000,000. A careful examination of these cases shows that they have no bearing on the question before us. The Chief Justice says:

That under the act of March 3, 1863, another issue was authorized, making the whole amount authorized \$450,000,000, and contemplating a permanent circulation, until resumption of payment in coin, of \$400,000,000.

The Chief Justice was not called upon by the case before him to pass upon the subsequent acts, and did not do so. In point of fact, there never was in circulation \$450,000,000 of United States notes; and it is safe to say that no one expected to resume specie payments in coin with so large a sum as \$400,000,000 United States notes outstanding.

A power over the currency so wide-reaching as the power to issue \$44,000,000 of new legal-tender notes is one that ought not to rest upon implication. It should not rest upon a doubtful construction of words in a law passed three years before, and used in regard to loans negotiated under widely different circumstances. Congress might well grant a power during war that it would not confer in peace. The full exercise of such a power would undoubtedly affect the nominal value of all property in the United States to the extent of at least 10 per cent., and the real value or burden as between debtor and creditor of at least 10 per cent. on all contracts to be performed *in futuro*. Such a power, if given, would be by clear and unambiguous language, and should not be inferred by subtile reasoning, or depend upon the pressure of interested parties or changing views of public policy.

In all questions of construction as to the extent of power conferred by law in matters which affect the public credit or public securities, a reasonable doubt as to a grant of power should be held to exclude it. After a careful review of the subject, your committee are of the opinion that the Secretary of the Treasury has not the power to issue United States notes in excess of \$356,000,000, outstanding when the act of February 4, 1868, took effect, but he may replace with new notes all mutilated or defaced notes, and, within the limit of \$356,000,000, may exchange or replace new notes for old ones.

And your committee report the following resolution:

Resolved, That, in the opinion of the Senate, the Secretary of the Treasury has not the power, under existing law, to issue United States notes for any portion of the forty-four millions of the United States notes retired and canceled under the act approved April 12, 1866.

IN THE SENATE OF THE UNITED STATES.

JANUARY 15, 1873.—Ordered to be printed, to accompany report No. 275.

Mr. WRIGHT submitted the following as the

VIEWS OF THE MINORITY.

The undersigned, minority of the Committee on Finance, being unable to concur in the conclusion reached by the majority, beg leave to present as briefly as may be the grounds upon which they base their non-concurrence.

There is no difference of opinion upon the question whether the Secretary of the Treasury well exercised the power claimed to be invested in him by Congress. We all agree that, if he had the power, he was fully justified in exercising it. We also agree that, in exercising it, he acted in the utmost good faith, and with the well-grounded conviction in his own mind that his way was clear, and that the public welfare demanded the exercise of the power.

We are therefore remitted to the single inquiry whether, under our legislation, there was power to issue these notes, and to that we come at once.

The acts of Congress of February 25, 1862, July 11, 1862, and March 3, 1863, confer unequivocally upon the Secretary of the Treasury the power to issue and re-issue United States notes to an amount not exceeding four hundred and fifty millions of dollars, subject only to the restriction that fifty millions shall be reserved for the redemption of temporary loan deposits, to be issued only when necessary for that purpose, leaving the amount, as fixed by those laws, which may be issued for permanent circulation, at four hundred millions.

The first-named act provides that the notes thus authorized "may be re-issued from time to time as the exigencies of the public interest may require." The second provides that the Secretary of the Treasury "may re-issue the notes so received in exchange; may receive and cancel any notes heretofore lawfully issued under any act of Congress, and in lieu thereof issue an equal amount in notes such as are authorized by this act."

The third contains the words, "And any of the said notes, when returned to the Treasury, may be re-issued from time to time as the exigencies of the public service may require. And in lieu of any of said notes, or any other United States notes, returned to the Treasury, and canceled or destroyed, there may be issued equal amounts of United States notes, such as are authorized by this act."

The power is thus expressly conferred upon the Secretary of the Treasury, not only to issue United States notes, but to re-issue any such notes received or returned into the Treasury, or to cancel and destroy the same and issue others in their place, within or up to the limit of four hundred millions. Unless that power has been taken away or modified by subsequent legislation, it still exists in its original extent.

The only legislation having any bearing upon this question is found

in the acts of April 12, 1866, and February 4, 1868. In the former it is provided—

That of United States notes not more than ten millions of dollars may be retired and canceled within six months from the passage of this act, and thereafter not more than four millions of dollars in any one month.

This provision must be considered with reference to the practice of the Department, at the time of or immediately preceding the passage of the act, and which was, of course, well known to Congress. The Secretary of the Treasury had been rapidly reducing the amount of currency in circulation, by withdrawing notes from the cash account and carrying them to the reserve fund, which at that time was about forty-two millions, and thus retiring them from circulation.

The authority of the Secretary of the Treasury to thus retire United States notes, and to either cancel or hold them in reserve as he might deem best, was not derived from this act. It existed already, under the acts before mentioned, and the provision now referred to was enacted for the sole purpose of *limiting*, in one particular only, the exercise of powers previously conferred—that is to say, by preventing any further withdrawal of currency from circulation at a rate more rapid than was therein prescribed.

The Secretary thus having authority, before the act of April 12, 1866, to retire notes at his pleasure, to re-issue those retired, and to issue new notes in place of those canceled, the language of an act which, so far as these powers were concerned, confined itself to an express limitation of his power to *reduce* the currency, would not by any fair construction seem to imply a repeal of the power to re-issue, or to take from him or limit the exercise of any power not, in that connection, specifically mentioned. After conferring by previous acts, and in such express and positive terms, the power to re-issue notes, it would seem that, had Congress designed by the new legislation to abridge that power, appropriate words to indicate that intent would certainly have been used.

Congress, being of opinion that further contraction of the currency had become inexpedient, passed, on the 4th of February, 1868, the following act:

AN ACT to suspend further reduction of the currency.

Be it enacted, &c., That from and after the passage of this act the authority of the Secretary of the Treasury to make any reduction of the currency, by retiring or canceling United States notes, shall be, and is hereby, suspended; but nothing herein contained shall prevent the cancellation and destruction of mutilated United States notes and the replacing the same with notes of the same character and amount.

While provision is thus made against any further reduction of the currency for the time being, no language is introduced taking away or restricting the power of the Secretary to issue and re-issue notes within the limit originally prescribed.

It thus appears that, on two different occasions, Congress has interfered, by express and positive legislation, to arrest a *reduction* of the amount of currency in circulation; first, by prescribing the ratio of reduction according to a fixed monthly limit, and, secondly, by an absolute suspension of the process. But on neither occasion did Congress, in the same manner, that is, by express and positive legislation, show its intention to arrest or modify in any manner the existing authority of the Secretary of the Treasury to issue and re-issue United States notes to the extent of four hundred millions, “as the exigencies of the public service may require.” And it is especially to be noticed that this act of February 4, 1868, related wholly to the authority and practice of the Secretary with reference to the withdrawal of notes from actual circulation, whether re-issued or not, and in no particular to the exercise

power of issuing conferred by former acts.

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The idea, therefore, that Congress intended to arrest the process of issue, as well as that of *reduction*, and to fix but *one limit as to both*, rests wholly upon implication.

The theory of repeal by implication must find its main support in the fact of conflicting legislation. When a later statute manifestly conflicts with a former one, it necessarily works, to that extent, a repeal thereof. No such conflict, however, is apparent in the present instance. The two legislative measures, represented in the one case by the acts authorizing the issue of United States notes, and, in the other, by those modifying or suspending their withdrawal, are neither inconsistent nor inharmonious. By the one, the necessity of a certain volume of currency was recognized, and the limit fixed at four hundred millions. Within that limit the Secretary of the Treasury was at liberty to expand or contract at pleasure, the only rule laid down for his guidance being "the exigencies of the public service." By the other Congress simply interposed, first, to check contraction, and secondly, to suspend it. In so doing it enacted that the volume of circulation should not be less than three hundred and fifty-six millions, but omitted to say that it should not be more. Hence the relative position of the two measures or processes of legislation referred to is simply this: by the first, Congress authorized a volume of currency *not to exceed* four hundred millions; by the second, it provided that, for the time being, it should not be less than three hundred and fifty-six millions. There is no conflict apparent here, the result being simply to establish the respective limits of contraction and expansion, and consequently no modification or repeal, by implication, of the discretionary power originally given the Secretary, except to confine the exercise of his discretion between the limits thus established.

But in the present case the theory of an implied repeal, in support of a different interpretation, has been carried to an unusual extent. Because Congress, by the act of February 4, 1868, arrested, at a certain point, the process of reduction, the inference is drawn that it intended to fix the amount of circulation permanently at that point; that when it expressly declared that the then existing amount of circulation should not, without further authority, be decreased, it must, therefore, be understood as *intending* to declare also that it should not be increased. A mere inference is thus made to take the place of actual legislation, and a conflict is assumed to exist between the legislation thus implied and the actual legislation previously existing, and to which, in the later act, no specific allusion is made. But the inference is just as proper, and far more reasonable, that Congress intended to leave it an open question, subject to the decision of the Secretary of the Treasury, in accordance with "the exigencies of the public service," whether the volume of currency should remain at the point where it stood when its further reduction was stopped, or be again increased by re-issue to the original limit. It is, moreover, equally reasonable to assume that when Congress, in the act of February 4, 1868, recognized, in express words, "the authority of the Secretary of the Treasury to make a *reduction* of the currency," and then proceeded to suspend that particular power, and that only, it would have deemed it likewise necessary to recognize or refer to in a similar manner his power to *expand* the currency, had it been intended to abridge that power.

These views are further strengthened by the very important fact that, prior to the legislation in question and while the Secretary of the Treasury had been intrusted, by three several enactments, with discretionary power to expand or contract the currency at pleasure, within an aggregate limit of four hundred millions, the policy of the country had never

been, up to that period, to have a *fixed amount* in circulation which could neither be increased nor diminished. Yet this is the effect sought to be given, *by implication*, to the later legislation on this subject, and it is unreasonable to suppose that Congress intended to adopt an entirely new policy in this regard, removing every vestige of the discretion previously lodged for years with the Secretary of the Treasury, without using express language to effect so radical and important a change, while it is both reasonable and in accordance with prior legislation to assume that Congress did intend only to fix that discretion within the narrower limit of forty-four millions.

Where no direct conflict between two different measures of legislation is apparent, but the legislative power is silent upon any given question connected with those measures, it may become necessary for the executive power to supply the omission. When this necessity arises, it should be met by endeavoring to harmonize rather than antagonize the respective enactments. This principle is so plain that it needs no elucidation. The presumption is obvious that Congress intends its legislation, *in pari materia*, to be harmonious, unless, by express language, it indicates a different intent. In the present case, such language is wholly wanting. There are no express words of repeal, nor is there anything in the language used which necessarily implies a repeal. On the contrary, while there is no apparent conflict between them, the scope of the two legislative measures referred to, though relating to the same general subject, is, in each case, in a legal point of view, distinct and complete.

The opinion of the Chief Justice of the United States, in the case of *Banks vs. Supervisors*, (7 Wallace, 26,) rendered subsequently to the passage of the act of February 4, 1868, has some bearing on the question at issue.

The Chief Justice took occasion, in that opinion, to say :

The act of February 25, 1862, provided for the issue of these notes to the amount of one hundred and fifty millions of dollars. The act of July 11, 1862, added another hundred and fifty millions to the circulation, reserving, however, fifty millions for the redemption of temporary loan, to be issued and used only when necessary for that purpose. Under the act of March 3, 1863, another issue of one hundred and fifty millions was authorized, making the whole amount authorized four hundred and fifty millions, and contemplating a permanent circulation, until resumption of payment in coin, of four hundred millions of dollars.

From this language it would appear that the Chief Justice was of opinion, not only that the permanent circulation authorized by Congress was limited to four hundred millions, but that such limitation was to *continue* "until resumption of payment in coin." Had the two acts of April 12, 1866, and February 4, 1868, been understood by him as intending to modify or reduce this limitation, it can hardly be supposed that he would have omitted all reference to those acts or either of them. We must conclude, therefore, that the Chief Justice considered the two acts last referred to as having no bearing whatever on this question, especially as the latest act had been passed within a year previously, and could not, probably, have been overlooked by him.

In no acts of Congress ever passed do we find any indication that the canceling or retiring of United States notes has any reference whatever to the power of the Secretary of the Treasury to issue and re-issue notes to the amount limited under existing laws, unless it is to be found in the two acts of April 12, 1866, and February 4, 1868; and to give a construction to the words that would repeal, by implication, the express provisions of the acts of February 25, 1862, July 11, 1862, and March 3, 1863, first above cited, would be carrying the doctrine of repeal by implication far beyond anything that can be found in the decisions of

the courts, or in the standard authorities on the construction of statutes.

And remembering that repeals by implication are never favored, it strikes us as exceedingly strange that it should be claimed that the three acts above referred to—February 25, 1862, July 11, 1862, and March 3, 1863—so far as they relate to the question now before us, were all stricken down by subsequent acts, which, so far from containing anything expressly in conflict with them, or even necessarily impliedly so, are in the most perfect harmony and accord with them. What was the object of conferring power on the Secretary of the Treasury to issue and re-issue these notes to an amount not exceeding four hundred millions? Obviously to act as in his discretion might seem best and necessary, in view of the public wants, and to meet any emergency or exigency in the money-market or trade of the country. The power was conferred, and no one pretends, or at least can, with justice, pretend that it has at any time been exercised otherwise than wisely and discreetly. And looking to our immense trade, the ability of the holders of capital to approximate, if not produce, a panic, the intention of the statutes providing for the issue of this four hundred millions, the discretion conferred, will it be believed that Congress ever designed to take away this power by the merest implication? The former statutes speak too plainly; the power conferred is too manifest, and at the same time too important; its exercise was apparently deemed too essential to the public welfare, to justify the conclusion for a moment that it should be taken away by other than legislation alike plain, clear, and obvious.

It is suggested, however, that no one ever thought or deemed it possible that this power was a continuing one. And this is based, as we conclude, rather upon what was the purpose or design of Congress, than anything found in the expressed will of the body. In other words, the thought "lying behind," it is insisted, was in conflict with the power claimed, and, as a consequence, this should be consulted, rather than the written or expressed will. Than this no rule of construction—though not unfrequently invoked, we concede—is more dangerous or unreliable. We know of no safer rule than to take the expressed will of the legislative body, as found in its enactments, the very language used, keeping in mind the object and purpose of the law, and applying to it received and well-established canons of construction. This groping in the misty somewhere—this reaching back behind the written will, to see what this member intended, or what all had in their minds, always leaves us in a field without chart or compass, and the people, and those intrusted with the execution of law, at the mercy of ever-uncertain memories, and those to be affected, all unconscious it may be, by the constantly changing events of life, not the least of these being, under our form of government, the extreme oscillation of public sentiment.

In our opinion the Secretary had the power denied in the views of the majority, and the law was not violated either in its letter or spirit.

And they accordingly recommend the adoption of the following resolution:

Resolved, That in the opinion of the Senate the Secretary of the Treasury has the power, under existing laws, to issue United States notes for any portion of the forty-four million dollars retired and canceled under the several laws on that subject.

GEO. G. WRIGHT.
T. W. FERRY.

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IN THE SENATE OF THE UNITED STATES.

JANUARY 14, 1873.—Ordered to be printed.

Mr. LOGAN submitted the following

REPORT:

[To accompany bill H. R. 861.]

The Committee on Military Affairs, to whom House bill 861 has been referred, having had the same under consideration, submit the following report:

The evidence accompanying the claim shows that the claimant, Robert McKee, late a private in Company F, Forty-third Regiment Wisconsin Volunteers, enlisted August 3, 1864, and was discharged on account of disability June 2, 1865, with loss of all pay and allowances because of fraud on his part in the enlistment, it being alleged that he was unfit for service when enlisted. His statement under oath and the testimony of three witnesses show that before entering service he was examined by the proper surgeon and was accepted; that before he was mustered in he was taken sick, when a petition was signed by a number of the soldiers of Company F, requesting a re-examination of claimant that he might be rejected. This re-examination was made and the surgeons reported him for duty. He was sick and in the hospital most of the time. The committee then recommend that the bill be passed.

IN THE SENATE OF THE UNITED STATES.

JANUARY 14, 1873.—Ordered to be printed.

Mr. LOGAN submitted the following

REPORT:

[To accompany bill H. R. 122.]

Walter J. Lee, late second lieutenant, Company D, Twenty-eighth Regiment Michigan Volunteers, was commissioned and mustered in September 22, 1864, having previously been honorably discharged from First Regiment Michigan Sharpshooters. He served as such officer until March 10, 1865, when he was placed under arrest for disobedience, tried by court-martial April 3, 1865, and found guilty. Before sentence, was released from arrest, returned to duty, and May 18, 1865, promoted to be first lieutenant, but not mustered in. On the 10th August, 1865, by General Order No. 99, he was sentenced to be cashiered and to forfeit all pay and allowance due or to accrue. By General Order No. 126, same date, the forfeiture of pay, &c., was remitted by order of General Ruger. Application has been made to the War Department, but the decision of the Adjutant-General is, that an executed sentence cannot be remitted; hence Order No. 126 was of no legal force. He applies to Congress for relief, that he may receive the pay and allowance due him as such officer.

Committee report favorably and recommend the passage of the bill.

IN THE SENATE OF THE UNITED STATES.

JANUARY 14, 1873.—Ordered to be printed.

Mr. LOGAN submitted the following

REPORT:

[To accompany bill H. R. 1722.]

In the case of Reuben H. Bishop, late a private in Company G, Twenty-first Ohio Volunteers and Mississippi Marine Brigade, the Committee, after examination, submit the following report:

That soldier was mustered into service August 26, 1862, for three years, in Company G, Twenty-first Ohio Volunteer Infantry; that he was discharged January 20, 1863, by reason of having enlisted in the Mississippi Marine Brigade. He was enlisted in Mississippi Marine Brigade January 24, 1863, and was finally discharged January 18, 1865, by reason Special Order 431, par. 46. His first discharge, which is on file, states that he is discharged by reason of having enlisted in the Mississippi Marine Brigade, pursuant to Special Order No. 89, from Headquarters Department of Missouri. Claim was rejected by Treasury Department because his services were not continuous. He avers he was transferred and passed directly from one to the other position. One witness testifies his service was continuous, but does not speak positively as to his being transferred. It does not appear from the records that the service was continuous. The Committee therefore return the bill with the recommendation that it do not pass.

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IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill S. 1380.]

The Committee on Pensions, to whom was referred the petition of Jane Humphrey, praying for a pension, submit the following report:

It clearly appears that the said Jane was married to James R. Humphrey in April, 1850, and has by him several children, two of whom, John E. and James D., are minors under sixteen years of age. It also appears that he was regularly enlisted and mustered into service as a private in Company H, Eighty-first Regiment Indiana Volunteer Infantry, 29th August, 1862, at New Albany, Indiana, to serve three years, he having enlisted, on 14th August, at Camp Noble.

His military history is thus stated by the Adjutant-General: On the muster-roll of this company, for the months of September and October, 1862, he is reported on detached service in the Eighth Wisconsin Battery since October 9, 1862; so reported on the muster-out roll of the company, dated June 13, 1865.

On the roll of Eighth Wisconsin Battery for September and October, 1862, he is reported present. On the roll for November and December, 1862, he is reported in hospital at Nashville since December 6, 1862; so borne on all subsequent rolls of the battery to April 30, 1864. May and June, 1864, reports him returned to command May 30, 1864, by special orders Department of Cumberland.

The case is complicated by another certificate of the Adjutant-General, to the effect that it appeared from the rolls on file in his office that James M. Humphrey was enrolled on 9th August, 1862, at Honeyville, in Company B of this regiment, and mustered into service as a private on 29th August, 1862, at New Albany, in the same company, (B,) to serve three years. On the muster-out roll of this company, (B,) dated June 13, 1865, he is reported "Died of disease November 22, 1862, in hospital at Bowling Green, Kentucky."

The Adjutant-General furnishes still a third certificate, this time as to James R. Humphrey, and his enlistment at Camp Noble, on 14th August, and his muster-in on 29th August, is given as before. His subsequent history is thus given:

"On the muster-roll of Company H of that regiment, for the months of September and October, 1862, he is reported 'absent on detached service in Eighth Wisconsin Battery since October 9, 1862.' Rolls of Eighth Wisconsin Battery for September and October, 1862, report him

present; November and December, 1862, absent in hospital, Nashville, Tennessee, December 6, 1862. So borne on subsequent rolls to May and June, 1864, when reported 'assigned from Company H, Eighty-first Indiana Volunteers; returned to command May 30, 1864, by Special Orders No. 22, Department of Cumberland, and dropped from the rolls.' Subsequent muster-rolls of Company H, Indiana Volunteers, and muster-out roll dated June 13, 1865, report him 'absent on detached service with Eighth Wisconsin Battery from October 9, 1862.' No evidence of death on file. Investigation fails to elicit any further information."

It is evident from these several returns of the Adjutant-General that there were two Humphreys in the service, one belonging to Company B, the other to Company H. It is a singular coincidence that the two men, with nothing to distinguish them but the middle letter of their names, should have been mustered into service on the same day, at the same place, and in the same regiment. There seems to be no doubt that the Humphrey who belonged to Company B died in November, 1862, in hospital, of chronic diarrhea. So the Surgeon-General in terms certifies. He states that the private was admitted to No. 5, general hospital, Bowling Green, Kentucky, November 4, 1862, for treatment for chronic diarrhea, and died on the 22d of that month.

If the petitioner is the widow of that Humphrey, there would seem to be no doubt of her title to a pension as his widow. When we leave the record-testimony and examine that of witnesses the confusion is increased. Thus, James Hubbard swears he was a private in Company H, well acquainted with James R. Humphrey, who was also a private in the same company, speaks of his detached service in the Wisconsin Battery in the month of September and part of October, 1862, and then proceeds to swear that, while in the line of his duty with said battery, near Crab Orchard, on or about the 14th October, he was wounded by the explosion of one of the enemy's shells, and because of this wound was sent to general hospital at Nashville. He then expresses his belief that the soldier died of this wound in November, 1862, either at Nashville or Bowling Green.

Another witness, one Wesley Dukes, swears that he was a private in Company H, and was detailed to duty with the Eighth Wisconsin Battery, and that James R. Humphrey, a private in the same company, was also detailed to the same battery. He also swears that about the 14th day of September, 1862, while with this battery, and in the line of his duty, between Perryville and Crab Orchard, Humphrey was wounded by a shell while in action. He swears that the shell hit him in the right side, and killed the horse on which he was mounted; that he was taken to the third hospital at Bowling Green, to which hospital the witness also was sent a few weeks later; that he heard James R. Humphrey's name called at roll-call, and one of the nurses answered "that Humphrey was dead and buried the day before." The officers in charge of the hospital also informed him that the soldier died on 4th October, 1862, and they showed the witness the soldier's knapsack and overcoat, both of which he recognized as Humphrey's. He adds that he is the more certain of this identification, having been the messmate of Humphrey.

The gentlemen comprising the board of commissioners of Crawford County, Indiana, certify to the unanimous opinion of the citizens of that county that James R. Humphrey is dead.

Mrs. Humphrey, in the declaration she made for a pension in the year 1869, swears to the death of her husband as having occurred at Bowling Green about the 4th November, 1862, on account of wounds received.

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The county treasurer of Crawford County, Indiana, expresses his belief of the death of Humphrey, and gives forcible reasons.

The claim of this widow must have been rejected at the Pension-Office on account of some doubt whether Mrs. Humphrey was the widow of James M. or James R. Humphrey. If we are to believe the military record, it was James M. Humphrey, a member of Company B, who died at Bowling Green. On the contrary, two witnesses who were his comrades, belonging to Company H, swear it was James R. Humphrey who died at that place. The applicant is the widow of James R., and not of James M., Humphrey, and we think the preponderance of evidence is in favor of his death.

There is some testimony—indeed, three witnesses positively swear—that James R. Humphrey, a private in Company H, had the measles at Edgefield, Tennessee, and was sent to a hospital at Nashville. They then swear that they were informed by a member of that company that Humphrey was sent from Nashville to Louisville in a dying condition. Their informant, whose name is Thomas Hawkins, died before his affidavit could be procured. The case is full of mystifications, but one fact seems clear enough: that Mrs. Humphrey had a husband who was a soldier, that he has never returned from the war, and the general belief is he is dead. The committee think it a safer course to allow her a pension, and report herewith a bill for her relief, and recommend its passage.

IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1873.—Ordered to be printed.

Mr. FERRY, of Michigan, submitted the following

REPORT:

The Committee on Post-Offices and Post-Roads, to whom was referred the bill (H. R. 2345) for the relief of Daniel O. Cleveland, postmaster at Broadalbin, in the State of New York, beg leave to submit the following report :

That they have carefully examined the claim of Daniel O. Cleveland for the relief provided for in said bill, and from the petition, affidavits, and other documents before them, find the following facts: That the said Daniel O. Cleveland is now, and has, for about two years past, been postmaster at Broadalbin, in the county of Fulton, and State of New York; also agent and depositary of the United States for the sale of United States revenue-stamps; that the post-office was kept in the store of Henry Beers, esq., a merchant in said town, county, and State; that the said Beers was deputy-postmaster under said Cleveland, and that the store was provided with a good and substantial fire-proof safe, the property of the said Henry Beers; that said D. O. Cleveland kept all United States postage and revenue stamps in his possession in said iron safe, which was kept securely locked during office hours, with the key thereof in the possession of said D. O. Cleveland, or his said deputy, Henry Beers; that on the night of the 8th of March, 1872, said store was entered by burglars, who broke open said iron safe by the use of gunpowder, or some other explosive substance, and carried away, among other things, a package of United States postage-stamps amounting to and of the value of \$140.92, and also a package of United States revenue-stamps amounting to and of the value of \$213.68; that said postage and revenue stamps were in the possession of said D. O. Cleveland, as such postmaster and stamp-agent of the United States, and the same were stolen and carried away without his knowledge, consent, privity, or procurement, or of said deputy, Henry Beers, and without any fault or negligence on the part of said Cleveland, or his deputy, Henry Beers. It appears that said D. O. Cleveland is a man of good moral character, strict integrity, but of limited means, and unable to bear this loss.

From the foregoing facts your committee are of the opinion that said D. O. Cleveland is justly entitled to the relief set forth in the bill, (H. R. 2345,) and therefore respectfully recommend its passage.

IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 2478.]

The Committee on Pensions, to whom was referred the bill (H. R. 2478) granting a pension to Sarah Baird, submit the following report:

The testimony shows that Thomas Baird was sergeant in company C, Fourth Regiment Pennsylvania Cavalry. On the muster-roll of that company, for the months of May and June, 1863, he is reported "killed at Frederick, Maryland, June 29, 1863." The adjutant-general adds: "It appears from records on file that he was shot and killed by the provost-guard at Frederick City, Maryland, June 29, 1863."

John C. Paul testifies that he was second lieutenant of this company, and well knew Baird, who was the quartermaster-sergeant of the company; that Baird was with a foraging party in the town of Frederick; that he had been sent with a detail to get forage, by order of Lieutenant-Colonel W. E. Doster, and that, while in town, he got off his horse to get a cigar, when the provost-marshal came up and ordered him to get on his horse and leave town; that Baird made some remark to the officer, when the latter struck him with his whip; that Baird then started away on his horse, when the provost-marshal ordered the guide to fire on him, which they did, and Baird, turning in his saddle, fired back, striking one of the guards in the cheek; that the marshal then ordered his men to fire on him again, which they did, and a ball entered Baird's back, killing him instantly.

Other witnesses testify substantially to the same state of facts, their variances relating to unimportant details. The army of the Potomac was then on its march to Gettysburgh, and the regiment to which Baird belonged had advanced some four miles beyond the city at the time of this occurrence. There is some apparent discrepancy in the testimony upon the question whether Sergeant Baird was in the line of duty at the time he was killed. Thus, Captain Martin, of Company C, certifies that the soldier was accidentally shot. Captain Horrell, who was first lieutenant of the company at the time, certifies that he gave the soldier permission to stop near Frederick City, and that he was shot accidentally. In the summary of proof, made up at the Pension Office, while application for a pension of Sarah Baird, the widow of the deceased, was pending, appears the following clause:

It appears by the testimony of his commanding officer that the soldier stopped at Frederick, Maryland, at his, the soldier's, request, and that when shot by the provost guard was not in the line of his military duty.

The evidence of the commanding officer here referred to is not among the proofs. It is at variance with the whole current of the testimony;

for beside the certificates and affidavits quoted, is a very circumstantial and apparently candid account of the whole affair, given by a large number of citizens of the town where Mrs. Baird lives. That account was evidently given from those who had been eye-witnesses of the homicide, or at least had heard it from such. They show, among other things, that the provost-marshal and all of his guard were under the influence of liquor at the time. All efforts at the Pension Office to ascertain the name of this officer have proved fruitless.

In this condition of the evidence, the committee think it safer to rely upon the statements of the officers above quoted, who speak positively to the fact that Sergeant Baird was in the town by lawful authority and on proper business. It is proved satisfactorily that Sarah Baird is the widow of the deceased.

The committee therefore recommend the passage of the House bill without amendment.

IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 2538.]

The Committee on Pensions, to whom was referred the bill (H. R. 2538) granting a pension to Mary A. Chute, submit the following report:

The record of the War Department shows that Edward P. Chute was enrolled on the 23d September, 1861, in Company I, Tenth Regiment of Maine Volunteers, to serve two years or during the war, and was mustered into service as a private on the 4th October, 1861, in the same company and regiment, to serve two years from May 3, 1861. On the muster-rolls for the months of July and August, 1862, he was reported "absent, sick in hospital, at Harper's Ferry, since July 6, 1862," and so reported to February 28, 1863. The muster-out roll of the company, dated May 7, 1863, reports "absent, sick, since July 6, 1862." The records on file further report him discharged at Annapolis, for disability, November 16, 1862. The Adjutant-General adds, "No evidence of sunstroke, capture, or parole on the rolls of the company."

The officer in command of paroled prisoners at Camp Parole, Annapolis, of the 4th November, 1862, certifies that during the last two preceding months the soldier had been unfit for duty. At the same time the surgeon in charge certifies that he had examined Chute, and found him incapable of performing the duties of a soldier because of neuralgia of head with intolerance of light; that the prisoner had been suffering since 25th June preceding, and was seized while on guard duty. By order of the officer commanding the post, Chute was discharged on the 16th November, 1862. He died at home, on the 29th June, 1863.

It is satisfactorily shown, by medical and other testimony, that when he returned home he was laboring under disease of chronic diarrhea and died of that complaint. It is also shown satisfactorily that when he enlisted he was over twenty-one years of age, and living with his parents, and contributed by his labor to their support. He labored on the farm and abroad, being a farmer by occupation, and his wages were mainly devoted to their support. While in the Army he sent portions of his bounty and pay to them. The records show that he was in two or three hospitals before he was discharged. It is also shown that he was taken a prisoner in 1862 and paroled. The original parole is among the papers. The evidence proves that his parents were married in 1830; that his father has been disabled for many years from much labor by reason of a rupture, and since his son's death the family have been in

straitened circumstances, their whole property, exclusive of incomes, being valued by their neighbors at \$300.

The committee are of opinion that the case is fairly made out of a dependence by the mother, Mary A. Chute, upon the son during his life for partial support, and in view of the age of the parents, and the disability of the father, they recommend the passage of the bill without amendment.

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IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 2505.]

The Committee on Pensions, to whom was referred the bill (H. R. 2505) to increase the pension of Mrs. Hannah W. Sumner, widow of Major-General Edwin V. Sumner, deceased, submit the following report:

Accompanying the bill in this case is the memorial of Mrs. Sumner. She refers to the long period of her husband's military service; how in the year 1819 he was appointed second lieutenant in the United States Infantry by President Monroe, and from that period forward continued in the military service of the United States until his death, which occurred March 21, 1863, while he was on his way to Saint Louis, to assume the command of the Department of the West. At his death he was a major-general of volunteers, to which position he was appointed by President Lincoln on the 5th day of May, 1862.

A certificate attached to the memorial furnishes the military record of General Sumner, as taken from his commissions; it is as follows:

Promoted first lieutenant of the Second United States Infantry, January 25, 1823, by President James Monroe.

Selected and appointed captain in the First Regiment United States Dragoons, March 4, 1833, by President Andrew Jackson.

Promoted major Second United States Dragoons, June 30, 1846, by President James K. Polk.

Appointed lieutenant-colonel by brevet, April 18, 1847, by President James K. Polk, for gallant conduct at the battle of Cerro Gordo, Mexico. (Wounded in said engagement.)

Promoted lieutenant-colonel First United States Dragoons, July 13, 1848, by President James K. Polk.

Appointed colonel by brevet, September 8, 1847, by President James K. Polk, for gallant conduct at the battle of Molino del Rey, Mexico.

Selected and appointed colonel of the First United States Cavalry, March 3, 1855, by President Franklin Pierce.

Selected and appointed brigadier-general United States Army, March 16, 1861, by President Abraham Lincoln.

Appointed major-general by brevet, May 1, 1862, for gallant conduct at the battle of Fair Oaks, Virginia.

Appointed major-general United States Volunteers, July 4, 1862, by President Abraham Lincoln.

Re-appointed major-general United States Volunteers, to date May 5, 1862, by President Abraham Lincoln.

Mrs. Sumner is now drawing a pension at the rate of \$30 per month.

She complains that this is inadequate to her support, and prays that it may be increased to \$50.

When she obtained her pension under the general law it was the highest rate allowed to widows of officers who had died by reason of wounds received or disease contracted while in the service of the United States and in the line of duty. It is the highest rate paid now under any general law. There have been cases where, by special act, \$50 has been allowed. Congress, by act of July 27, 1868, manifested its sense of the injustice or impolicy of this special legislation by providing that in all cases of pension, before that time or thereafter granted by special acts, they should be subject to be varied in amount according to the provisions and limitations of the pension-laws. The effect of that sweeping provision was to reduce every pension granted to a widow exceeding in amount \$30, by special act, to that rate. Such was the intention of the act; such the construction put upon it. But such a clamor was raised by those favorites of special legislation as were drawing pensions at higher rates, that two years later, Congress re-instated them in their former rights and restored to them the excess above \$30, which had been withheld. The law of 1868 is alluded to to show what the sense of Congress at that time was upon the impolicy of making distinctions among officers and the widows of officers of the same grade.

The committee are of opinion that law was just, and it were better for the country that it remain permanently the rule. They see nothing in the case of Mrs. Sumner which justifies them in allowing her a pension higher than the general rate. To do so is to multiply exceptions to the rule, which are already too numerous. It will never do to say that the widow of this major-general shall have \$50 per month, while the widow of another shall rest content with \$30. As their husbands were of equal rank and drew equal pay, so their widows should be equal in the pensions they receive, as they are in the rank or consideration they obtain in right of their husbands.

There is another consideration to which the committee cannot shut their eyes. Mrs. Sumner now draws a pension nearly four times greater than the widow of the most gallant and meritorious private in her late husband's command. The widow of the private may be, and too often is, miserably poor, with a large family to support, bending too often over the wash-tub to earn her daily bread. She does not murmur at the smallness of the bounty of the Government, inadequate as it is for her support. She knows she receives just as much as other widows similarly circumstanced, and is not forgetful of the fact that the taxpayers of the nation already contribute more than thirty millions yearly to pay the promised pensions. She is content, because the law is equal and she gets as much as her neighbor. Her husband's pay was much less than a major-general's. Therefore she ought to be much poorer; but death, the common leveler, made her and Mrs. Sumner equals—equals in misfortune—equals in the honor of surviving patriotic husbands, who gave their lives to their country. The private's life was to him all that the major-general's was to him. The law made one rule for them while living; it has made one rule for their widows—not equality, but justice. The committee are constrained to recommend that the bill do not pass.

IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

R E P O R T :

[To accompany bill H. R. 2509.]

The Committee on Pensions, to whom was referred bill H. R. 1487, report :

The proof shows the enlistment and muster-in of Abraham Snively as private in Company F, Eleventh Regiment Michigan Volunteers, his service and discharge, and that he died in a military hospital at Nashville on the 17th of July, 1865, while doing service in the Quartermaster's Department. It is shown that he died of acute dysentery, and the committee are of opinion that his disease was contracted while he was in the service.

His widow has married again. Of the four children borne to her first husband, but two, Marilla S. Snively and Mary E. Snively, are now minors. The committee recommend the passage of the bill, with an amendment, substituting Mavilla for Marilla.

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IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 2539.]

The Committee on Pensions, to whom was referred bill (H. R. 2539) for the relief of Frederick Walter, Company A, Fourth United States Artillery, submit the following report:

The military record of Frederick Walter, as furnished by the Adjutant-General, and otherwise appearing from his discharges, is as follows:

On July 16, 1853, he was enlisted at New York for the period of five years, on the muster-roll of Company A, Fourth Regiment United States Artillery. For the months of May and June, 1858, he is reported, "private, discharged by re-enlistment, 17th May, 1858, at Fort Leavenworth, Kansas, and re-enlisted 17th May, 1858, for five years. Muster-roll Company H, Tenth Infantry, for May and June, 1863, reports him private, discharged 17th May, 1863, by expiration of service, at camp near Falmouth, Virginia. Re-enlisted August 2, 1867, at Washington, D. C., for three years; discharged for disability March 22, 1869, at Washington, D. C., a private Company F, Forty-fourth United States Infantry."

In his application for a pension he declares that when he entered the service he was a sound man, with good eye-sight; that during his service in the Fourth Artillery his right eye began to fail, and continued to do so slowly all through that service, as well as during his service in the Tenth and Forty-fourth Infantry, and that he was then entirely blind in that eye, and believed the loss of the eye was caused by excess of fatigue and exposure in the service of the United States and in the line of his duty.

He was examined August 28, 1869, at Washington, D. C., by an examining-surgeon, who gave it as his opinion that his disability was "three-fourths," and of a permanent character. In the particular description given by the surgeon he says that Walter had myopia, or near-sightedness, affecting both eyes; that he had strabismus of the convergent variety of the right eye; that the myopia was marked, rendering the applicant unable to distinguish objects or persons, except their proximity was immediate. A late surgeon of the United States Army, Basil Norris, certified, October 12, 1869, that he knew nothing of Walter's case prior to his enlistment in the Forty-fourth Regiment United States Infantry, August, 1867, at which time he applied to him for some influence to enable him to be re-enlisted. The medical officer to whom he made application in Walter's behalf refused to pass him on the ground of defective eye-sight. Surgeon Norris then applied to General Canby's

headquarters in Washington for authority to have Walter enlisted, and the result of his application was an order to the officer commanding the Forty-fourth Regiment to enlist Walter as an old soldier, disabled by previous service.

The evidence of officers and private soldiers tends to show that as far back as the fall and winter of 1858-'59, while the artillery company to which Walter belonged was stationed at Fort Laramie, his eye-sight became weakened and impaired from constant exposure to severe weather, and that he had to be relieved from active duty. From the fall of 1859 until he was transferred to the Tenth Infantry, his eyes became weaker and worse, so as to render him entirely unfit for active military duty.

He was discharged, as stated above, March 22, 1869, upon the certificate of an assistant surgeon of the Army, that he found him incapable of performing the duties of a soldier; that his unfitness for active duty arose from myopia, and from his being over the age of fifty-two years. He further certified that the soldier's disability existed before his last enlistment.

It appears from a letter of the Commissioner of Pensions to the claimant, addressed to him at the Soldiers' Home, near Washington, that his claim was rejected upon the ground that his disability existed prior to his last enlistment; and although the disease was contracted in the service, that no provision of law would warrant a pension, and that Congress alone could give him relief. Upon this decision he applied to Congress.

The committee are of opinion that a case is fairly made entitling Mr. Walter to a pension. The House bill provides a pension from May 13, 1863. The committee recommend the passage of the bill, with an amendment, that the pension commence with the passage of this act.

IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT :

[To accompany bill H. R. 2958.]

The Committee on Pensions, to whom was referred the bill (H. R. 2958) granting a pension to Joseph Greer, late private Company G, First West Virginia Cavalry Volunteers, submit the following report :

The substance of the memorial of Mr. Greer is that he was a private in company and regiment as above; that he was one of the body-guards of General Geary, who was in command of the United States troops at camp near Middletown; that while at said camp he was ordered by General Geary to guard a prisoner from the camp to provost-marshal's office at Middletown; that after having performed this duty and on his return he determined to ascertain the workings of some new cavalry arms, lately introduced into the service, and in doing so was accidentally wounded in his right hand, from the effect of which he had to suffer amputation of his arm; that his claim was rejected at the Pension-Office, August 13, 1870, for the reason that the wound was the result of his own carelessness.

The records of the War Department show that he was discharged at Fort McHenry, October 14, 1862, by reason of a gunshot wound. The muster-out roll, dated November 21, 1864, reports him "accidentally shot himself." The surgeon in charge at that fort, under date of October 14, 1862, certifies that he found Greer incapable of performing the duties of a soldier, because of "gunshot wound of right hand, middle finger amputated; hand useless from effects of gangrenous erysipelas; not received in line of duty."

On the 15th March, 1870, an examining-surgeon of Lawrence, in the State of Ohio, certified that Greer's disability was total and permanent, of the third grade; that he was wounded in index and middle fingers of right hand on the 5th July, 1862, by accidental discharge of his pistol; was sent to Fort McHenry, where the middle finger was amputated; that subsequent to his discharge inflammation and gangrene set in, and the arm had to be amputated at middle part of fore-arm.

The surgeons who performed the amputation on April 11, 1863, testify that the condition of the hand and wrist, seemingly warranting amputation, was extensive disease which had destroyed all the articulations of the carpus and metacarpus and wrist-joint. The hand and wrist were one mass of disease, with several fistulous openings, rendering all attempts to restore the member to health useless.

The statement of the claimant as to the manner of receiving the

wound is substantially confirmed by the first lieutenant of his company, who saw him within an hour after the accident occurred.

It is proved that Greer was a man of temperate habits, and that his wound was not aggravated by the use of intoxicating liquors.

The private's own account of the accident, as given under oath, is: That about the 2d of July, 1862, Savage's revolvers had been distributed among the members of his company, he receiving one. The locks were of a peculiar structure, such as had not before been in use in the regiment, and he thought it necessary that he, as a soldier, should make himself familiar with this new weapon before it could be made serviceable, and three days afterward, while on his return from the provost-marshal's to Geary's headquarters, with some soldiers of the One hundred and twenty-eighth Pennsylvania Infantry, he was working the lock of the revolver, and had his left middle finger on the spring in the act of letting it down when an explosion occurred, and the ball was discharged through the middle finger of his right hand. He states that he then reported himself to headquarters, and was sent to the surgeon in charge, who dressed the wound, taking from it several pieces of bone. On the evening of that day he was sent to Winchester, eighteen miles distant, to go into the hospital there; but instead of being placed in that hospital, he was, the same night, with others, sent on to Baltimore, where they found all the hospitals full. They were then placed in Fort McHenry, but the barracks in that fort were filled to their entire capacity with sick and wounded men, so that the claimant, with a thousand other sick and wounded soldiers, was compelled to occupy an open field connected with the fort, without shelter of any kind to protect him from the sun. In this condition he remained for two weeks, without tents or conveniences of any kind. On July 15 he took a violent cold, inflammation of the wound soon followed, which extended the entire length of the arm, producing gangrene in the hand; on the 24th July an operation was performed by the surgeon in charge; but this did not stop the progress of the inflammation, which continued until his whole system was seriously affected. After the 24th, he was confined to his bed in the fortress for a period of nine weeks.

This is the account which the soldier gives of his wound and its treatment.

No witness testifies to the manner of the accident except the claimant himself. It is not clear that his wound was not the result of carelessness. But the committee are of opinion that as the soldier could have had no motive for inflicting the injury, and as it occurred while he was in the service and in the line of duty, they should not consider too critically whether the accident might not have been avoided by the use of greater prudence. The arm was a new one, just introduced, and it was proper he should familiarize himself with it.

The committee therefore recommend the passage of the House bill with amendment.

IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1873.—Ordered to be printed.

Mr. LOGAN submitted the following

REPORT :

[To accompany bill H. R. 2510.]

The committee find that Amos Farley enlisted in Company G, First Regiment Michigan Sharpshooters, July 7, 1863; was discharged July 28, 1865; that he again, March 14, 1866, enlisted in Company H, Twenty-seventh Regiment United States Infantry, and was discharged at Fort Philip Kearney, Dakota Territory, October 3, 1867, on surgeon's certificate of disability, by reason of convulsions or fits. No surgeon's certificate is attached, and no papers from the Pension-Office showing why his claim was rejected, but petition avers it was because the proof that the disease was contracted in service was deemed insufficient. Evidence of good health before entering service, and while at home between first discharge and second enlistment, and that he is now subject to convulsions and disabled from manual labor, and belief that disease was contracted in service, is voluminous and positive, by a large number of his neighbors who knew him from boyhood.

The committee recommend the passage of the bill.

IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1873.—Ordered to be printed.

Mr. FERRY, of Connecticut, submitted the following

REPORT:

[To accompany bill H. R. 2546.]

The Committee on Pensions, to whom was referred House bill 2546, being an act granting a pension to Daniel Wooden, respectfully report :

That Daniel Wooden was a private in the Sixty-fourth United States Infantry, colored troops, and served for five years, when he was discharged for disability, and has ever since been disabled by reason of disease contracted in the said service, and in the line of duty, for which he is now allowed a pension of two dollars a month; that after his discharge he was employed as a laborer in the Quartermaster's Department, and, by an accident, lost an arm; that not being at that time in the military service he is not entitled to pension for that injury, but his previous disability, incurred in the service as aforesaid, is greatly increased thereby, but the Pension-Office refuses to increase his pension. The committee think this ruling unjust, and recommend the passage of the bill.

IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1873.—Ordered to be printed.

Mr. FERRY, of Connecticut, submitted the following

REPORT :

[To accompany bill H. R. 2487.]

William L. Black, private Company K, Seventy-sixth Pennsylvania Volunteers, died in the service at Jackson United States general hospital, North Carolina, on the 28th March, 1865, of swamp-fever, leaving the applicant, Elizabeth Black, his widow, to survive him. She applied for a pension, and her claim was rejected because she did not complete the proof within five years, and there was no record evidence of the soldier's death. After the expiration of the five years, the death is proved by two witnesses, and the case is clearly made out in all points.

The widow should have a pension.

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IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1873.—Ordered to be printed.

Mr. KELLY submitted the following

REPORT:

[To accompany bill H. R. 2978.]

The Committee on Post-Offices and Post-Roads, to whom was referred the bill (H. R. 2978) for the relief of Francis B. Stewart, postmaster at Altoona, Blair County, Pennsylvania, submit the following report:

On the night of the 7th of October, 1870, the post-office at Altoona, Pennsylvania, was entered by burglars, and a large amount of postage-stamps stolen therefrom. This fact was reported on the following day to the Post-Office Department by the postmaster, Francis B. Stewart, who afterward sought to obtain a credit from the Postmaster-General for the sum of \$1,220, the value of the stamps alleged to have been stolen. Having failed to obtain the credit, Mr. Stewart now asks relief from Congress.

At the time of the robbery, the post-office was kept in a brick building known as the Masonic Hall, where it had been kept for ten years prior to that time. It was divided by a hall, left open at night, on one side of which was the post-office, and on the other the office of a doctor and a dentist. The doctor generally slept in his office, but no one, it appears, staid in the post-office, where there was neither vault nor safe in which the money and postage-stamps could be securely kept. An entrance was effected by forcing open the back-door of the post-office, and the stamps were taken from a drawer, whether locked or unlocked at the time does not appear. The predecessors of Mr. Stewart, it seems, kept the post-office in the same room and in the same manner for ten years before the robbery. The foregoing are the facts as they appear before the committee, and as they are presented by the postmaster himself. From his own statement, we think he is not entitled to any relief. The city of Altoona, at the time the burglary was committed, had a population of more than ten thousand souls, and the amount of money and stamps in the post-office was necessarily large, and quite likely to invite the attention of burglars if insecurely kept. Some precaution should therefore have been taken by the postmaster to guard against the robbery of his office. He ought either to have procured a safe, deposited the money and stamps in the national bank in Altoona, or other secure place, or else caused some one to sleep in the office at night. The salary received by him was \$2,100 for the fiscal year ending June 30, 1870, and \$2,800 since that time, an amount quite sufficient to warrant some little precaution on his part to secure the Government property intrusted to his care. It is no excuse to say that his prede-

cessors acted in the same careless way, or that the Government neglected to provide a safe or vault in the post-office for his use. When he accepted the appointment of postmaster, the law imposed upon him the duty and responsibility of taking the same care of the public funds and property as a prudent man would take of his own affairs. This the committee think he has failed to do.

The committee therefore recommend the indefinite postponement of the bill.

IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1873.—Ordered to be printed.

Mr. SAULSBURY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 2529.]

The Committee on Pensions, to whom was referred the bill (H. R. 2529) granting a pension to Martha P. Greenlee, submit the following report:

James H. Greenlee, husband of Martha P. Greenlee, was second lieutenant in a company in the Seventy-fourth Regiment enrolled Missouri Militia, a home-guard organization of the State of Missouri, and died, as stated in affidavits among the papers in the case, from disease contracted while on duty in said regiment. The said regiment was never in the service of the United States, and the said James H. Greenlee was not killed in battle. The committee do not think it would be wise to pass the bill, as it would be a precedent that would greatly increase the roll of pensioners upon the Government if followed in similar cases, and therefore report adversely.

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OF THE
LAND OFFICE
FOR THE YEAR
1890

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LAND OFFICE
FOR THE YEAR
1890

IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1873.—Ordered to be printed.

Mr. SAULSBURY submitted the following

REPORT:

[To accompany bill H. R. 2526.]

The Committee on Pensions, to whom was referred the bill (H. R. 2526) granting a pension to Christiana W. Murry, submit the following report :

Christiana W. Murry is the widow of Gilbert E. Murry, who was in command of a company in the First N. E. Missouri Home Guards. Her husband was wounded by the accidental discharge of a gun in the hands of a member of the regiment, and died about October 20, 1861. He was never mustered into the service of the United States. The regiment subsequently to his death was mustered into service, and became Twenty-first Regiment Missouri Infantry Volunteers. The committee cannot advise the passage of the bill, and report it unfavorably.

IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1873.—Ordered to be printed.

Mr. SAULSBURY submitted the following

REPORT:

[To accompany bill H. R. 2528.]

The committee, to whom was referred the bill (H. R. 2528) granting a pension to Joseph Cressey, have had the same under consideration and cannot recommend its passage. Said Cressey says that he was a member of the provost guard at Jackson, in the State of Michigan, and was sent in charge of recruits to a point near the city of New York, and while on the railroad-train a collision occurred which greatly injured him. The case rests principally upon his own statement, and he says he is unable to prove the injury in the manner stated by any one. The committee report adversely on the bill.

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IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1873.—Ordered to be printed.

Mr. SAULSBURY submitted the following

REPORT:

[To accompany bill H. R. 2525.]

The Committee on Pensions, to whom was referred the bill (H. R. 2525) granting a pension to Lucinda Thomson, submit the following report:

The evidence contained in the papers accompanying said bill satisfies the committee that Lucinda Thomson is the widow of Lewis Thomson; and that her said husband was mustered into the military service as a private in Company A, Thirty-first Regiment Illinois Volunteers, on or about the 20th day of November, 1861; and that he died in Paducah, Kentucky, March 10, 1862. The records of the adjutant-general's office of the State of Illinois, as appears by a certificate from the adjutant-general of the State, show these facts, which are corroborated by other testimony. The affidavit of Isham E. Willis, the second lieutenant of said company, says that said Lewis E. Thomson, while in line of duty at Fort Donelson, was attacked with pneumonia, and was sent to Paducah, Kentucky; and that he never returned to the regiment; and that his death was officially reported to the regiment. The Second Auditor, in a letter among the papers, shows that a certificate was issued, allowing the said widow pay to March 10, 1862; and that company-rolls report him enrolled November 20, 1861, and died March 10, 1862, in hospital at Paducah, Kentucky. The committee recommend the passage of the bill.

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IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1873.—Ordered to be printed.

Mr. SAULSBURY submitted the following

REPORT :

[To accompany bill H. R. 2499.]

The Committee on Pensions, to whom was referred the bill (H. R. 2499) granting a pension to Mary A. Miller, report :

That the evidence furnished by the papers in this case shows that Mary A. Miller was the mother of Moses G. Miller, late a private in Company F, Eighty-seventh Regiment New York Volunteers, and that she was partially dependent on him for support, he contributing with her other children to her maintenance. The proof further shows that the soldier died in hospital at Baltimore in 1862, from disability, as stated in some of the papers. The records of the Surgeon-General's Office show that he is reported to that Office as having died October 11, 1862, of wounds. The Commissioner of Pensions required additional evidence as to the cause of wounds, which it is alleged it is impossible to supply.

The soldier was enlisted for three years, and died of wounds before the expiration of his term of service in general hospital, and the committee think it a reasonable inference that his wounds were received in line of duty, and recommend the passage of the bill.

IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1873.—Ordered to be printed.

Mr. LOGAN submitted the following

REPORT:

[To accompany bill H. R. 2511.]

It appears by evidence from Adjutant-General's office, that applicant entered service as a recruit at Camp Chase, Ohio, February 15, 1864, Company I, Forty-third Regiment Ohio Volunteers, and was mustered out July 13, 1865.

Dr. Hewitson, who was captain of the company, furnishes evidence of attending him for chronic diarrhœa and hepatic affection, about March, 1864; that in the autumn of 1865 he treated him for the same disease; that in 1870 and 1871 he treated him for the same disease, when he also had symptoms of phthisis, as he believes the result of the disease contracted in the Army. Dr. T. O. Edwards, examining surgeon, February, 1871, says he is laboring under pericarditis, which has resulted from attacks of diarrhœa; that he is totally disabled, third grade, and suggests a temporary pension under "act of June 6, 1866." There is proof that applicant was a sound and healthy young man when he entered the Army, and that he is temperate. The reason why this application was rejected does not appear among the papers.

The committee recommends the passage of the bill.

IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1873.—Ordered to be printed.

Mr. LOGAN submitted the following

REPORT:

[To accompany bill H. R. 2452.]

The Committee on Pensions, to whom was referred the petition of Abigail Stuckey for a pension, having examined and considered the case, beg leave to make the following report:

That the said Abigail Stuckey is sixty-eight years of age, and the widow of Jacob Stuckey, deceased, to whom she was married in June, 1821; that they never had any children; that she was the foster-mother of Asbury Davis, deceased, late private of Company E, Second West Virginia Mounted Infantry, who enlisted June 8, 1861; that he was killed in action at Rocky Gap, Virginia, August 12, 1863, while in the line of his duty as a soldier, fighting for the Union.

That said petitioner was dependent on the said Asbury Davis for support, and that he did support her before entering the service, and while in the service sending her money for that purpose. The committee, believing that all temporal support was taken away from this aged widow by the demands of the country, feel justified, in this case, in recommending the passage of the accompanying bill.

IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1873.—Ordered to be printed.

Mr. LOGAN submitted the following

R E P O R T :

[To accompany bill H. R. 2514.]

Petition and corroborating proofs show that William A. Hoon was assistant engineer on the steamer Champion, No. 3, employed in United States service, and that he was killed on Red River, April 27, 1864, by the blowing up of the boat while attempting to pass batteries of the enemy, while engaged in the Red River expedition, said deceased at the time acting as assistant engineer. Vice-Admiral Porter certifies to said boat being in the employ and service of the United States and under his control at the time. Proofs of marriage and birth of child, and that petitioner is still a widow, on file. It is averred that widow of Daniel Stewart, captain on said boat, who was killed at same time, receives a pension, issued September 24, 1868. Rejected by Commissioner of Pensions for the reason that deceased was not in the service of the Navy at the time of death. The committee report favorably in the case, and recommend the pension be granted.

1870

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REPORT

The following report was made by the committee on the subject of the proposed amendment to the constitution of the State of New York, at a public hearing held at the City Hall, New York, on the 10th day of January, 1870.

The committee, composed of Messrs. [names], have the honor to report that they have carefully considered the proposed amendment, and have concluded to recommend its adoption.

The proposed amendment is as follows: [text of amendment]

The committee believe that the adoption of this amendment is necessary for the better government of the State, and for the protection of the rights of the people.

Very respectfully,
[names of committee members]

IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1873.—Ordered to be printed.

Mr. LOGAN submitted the following

REPORT:

[To accompany bill H. R. 2513.]

In this case the papers show that Walter O'Donald, late private Company A, Eighty-fifth Regiment Pennsylvania Volunteers, enlisted September 23, 1861, and was accidentally killed by the explosion of a shell July 9, 1864, near Petersburg, Virginia. The evidence on file also shows that the soldier at the time of his death was unmarried, and left no minor children; that applicant was his mother; that at that time she was a widow and has since remained a widow; that her said son contributed liberally to her support, and had done so for about four years previous to his death. Claim was rejected by Commissioner of Pensions for the reason that the death of the soldier was considered the result of his own carelessness. Proofs show that it had been customary to pull the fuse-plugs from shells that did not explode. On the day of soldier's death a shell fell near camp, and not exploding, he removed the fuse-plug, and some powder scattered on the ground took fire, and, communicating with the shell, exploded it, killing him. The committee report in favor of granting a pension to applicant.

IN THE SENATE OF THE UNITED STATES

JANUARY 16, 1873.—Ordered to be printed.

Mr. LOGAN submitted the following

R E P O R T:

[To accompany bill H. R. 2512.]

*Application of Susan W. Mecham, widow of Abel F. Mecham, surgeon
United States Army, deceased.*

It appears in this case from the evidence accompanying the application that deceased was appointed assistant surgeon United States Army October 11, 1860; was promoted surgeon, with rank of major, June 16, 1867; and died July 14, 1871, of disease of the heart. Proofs of marriage of applicant with deceased, the birth of three children, yet living and of tender age, that said applicant has not again married, are on file and sufficient. The proof of death, and that it resulted from disease of the heart, is also conclusive. The Surgeon-General reports, through the Adjutant-General, that Surgeon Mecham died of disease of the heart, the result of an injury received June, 1870, from a fall in getting off the cars at Hays City, Kansas. On this ground the claim was rejected, the Commissioner of Pensions deciding that "as jumping off the cars while the train is in motion is not considered line of duty."

Charles A. Rutledge, M. D., testifies he had personal knowledge of the health of deceased before and after the injury mentioned, and is satisfied the disease of heart, which caused his death, was not the result of that injury, but that it was the result of an attack of inflammatory rheumatism, brought on by exposure while on duty.

R. Emory, M. D., testifies that he was with Dr. Rutledge in attendance on deceased in his last illness, and that he dates the origin of the disease to the attack of inflammatory rheumatism. The committee report in favor of granting the pension by passage of the bill.

IN THE MATTER OF THE

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REPORT

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IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1873.—Ordered to be printed.

Mr. LOGAN submitted the following

REPORT:

[To accompany bill S. 762.]

Application of John W. Crawford, late private Company H, Fifth Kansas Cavalry Volunteers, to be restored to the pension-roll:

Papers do not show why a pension was granted, why his name was dropped from the roll, or why he should be restored; and as the Commissioner of Pensions has full authority, upon a proper showing, to replace his name upon the roll, the committee ask to be discharged from further consideration of the case, and that the applicant have leave to withdraw his papers.

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IN THE SUPREMACY OF THE LAW

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REPORT

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IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1873.—Ordered to be printed.

MR. RAMSEY, from the Committee on Post-Offices and Post-Roads, made the following

REPORT:

The Committee on Post-Offices and Post-Roads, to whom was referred the petition of F. W. Swift, postmaster at Detroit, Michigan, praying that Congress will authorize the Postmaster-General to relieve him from the liability under which he is placed to refund the amount of \$2,463, embezzled by William H. Gregor, a dishonest clerk in his office, respectfully report:

That in the consideration of his application for relief it is found that the said Wm. H. Gregor was appointed clerk upon said postmaster's own recommendation.

That after an examination of all the facts in the case, the committee are of opinion that said postmaster should not be relieved from his responsibility for the loss incurred by him in consequence of the theft or embezzlement of his clerk, for whose fidelity he and his sureties are liable under his official bond for the safe-keeping of all public moneys coming into his custody in his official capacity.

A copy of a communication from the Postmaster-General, in relation to this case, is hereto annexed and made a part of this report.

POST-OFFICE DEPARTMENT,
MONEY-ORDER OFFICE,
Washington, D. C., January 8, 1873.

SIR: I have the honor to return herewith the petition addressed to Congress on the 6th ultimo, by F. W. Swift, postmaster at Detroit, Michigan, praying that that body will authorize the Postmaster-General to relieve the petitioner from the liability under which he is placed to refund the amount \$2,463, embezzled by W. H. Gregor, a dishonest clerk in his office. A letter written to Hon. Z. Chandler, United States Senate, by that postmaster upon the subject on the 7th ultimo is also returned. I beg to state, by direction of the Postmaster-General, that all the information in the possession of this Department, touching the subject-matter of this petition, is contained in a report of Special Agent John I. Knapp, dated May 30, 1872, a copy of which is herewith transmitted. That officer had been instructed to examine into the money-order business and accounts of several postmasters in the interior of the State of Michigan, whose office of deposit is Detroit, who were apparently improperly withholding their surplus money-order funds from deposit.

The result of this investigation, as stated in his report, was to exonerate those postmasters from all blame in the premises, and to show that the Detroit office was at fault, the cash-books of which contained "no entry of any credits of recent date for either of those offices," although remittances had been duly made by them and duly received at Detroit. But on comparing the account of registered letters received with the money-order cash-book, it was at once discovered that W. H. Gregor, money-order clerk of that office, had embezzled the sum of seven thousand seven hundred and sixty-three

dollars, by "holding remittances from nine to twenty-four days before making any entry, or issuing any certificates to the depositing postmasters." The agent reports that "no inspection of the cash-book would show anything wrong," and that "Postmaster Swift had unbounded confidence in the honesty and integrity of Gregor." But it appears that the simple and obvious methods of ascertaining that the cash-book was correct, viz, that of comparing the entries in the account of registered letters received with the entries of remittances received, in the cash-book, disclosed the defalcation of Gregor. The agent further states that "five thousand dollars of the loss falls upon Mr. Brooks, bondsman for Gregor, and the balance upon Postmaster Swift."

After due consideration of all the circumstances of the case, I beg to state that this Department does not perceive that it differs, in any material respect, from ordinary cases of claim made by postmasters for relief from responsibility for public funds in their custody embezzled by clerks employed in their offices.

Every postmaster knows, or ought to know, that the published regulations of the Department, based upon an opinion of a former Attorney-General, declare that "one who has the custody of the public money or property, and is paid for taking care of it, cannot get rid of his responsibility by showing a theft or accidental loss. He is an insurer of its safety against all perils of that kind."

It is for the Committee on Post-Offices and Post-Roads to consider whether the refunding to postmasters, by Congress, of the amount of public funds embezzled by their subordinates would not tend to weaken in the former class of officers the sense of their responsibility for the safe-keeping of such funds. In the majority of instances a vigilant supervision, on their part, of the financial business of their offices would wholly prevent embezzlement. It would therefore appear hardly equitable that the United States should assume liability for losses resulting entirely, or in a great degree, from the negligence of postmasters, or from their excess of confidence in subordinates appointed by them and removable at their pleasure.

Should Congress, however, think proper to re-imburse Mr. Swift for the amount of the loss incurred by him, by reason of the embezzlement of his clerk, an appropriation for that purpose should be made from the General Treasury, and not out of the revenues of the Post-Office Department, inasmuch as the funds embezzled were not a part of its revenues derived from the sale of postage-stamps or otherwise, but were moneys received from the public for the issue of money-orders, and were ultimately to be paid out to the holders of such orders on presentation thereof. For these moneys, while in his custody, the postmaster at Detroit and his sureties deliberately assumed responsibility when his official bond was executed.

I am, respectfully, your obedient servant,

C. F. MACDONALD,
Superintendent.

Hon. THOMAS W. FERRY,
Committee on Post-Offices and Post-Roads, United States Senate.

STATE OF MICHIGAN,
OFFICE SPECIAL AGENT POST-OFFICE DEPARTMENT,
Adrian, Michigan, May 30, 1872.

SIR: I have the honor to report I have investigated money-order cases [at Au Sable, Iosco County, Michigan, also at Alpena, Alpena County, Michigan. A thorough examination of the books and papers in these offices disclosed the fact that they were both in the habit of remitting weekly instead of daily, as the law directs. But it was also apparent that the postmasters at both these offices were *not* withholding surplus money-order funds, only as stated above, nor had they been antedating their weekly remittances. I made memorandum of the date of their remittances for eight weeks past. I also took the number of package-envelopes containing the remittances as claimed by the postmaster. I compared the certificates issued by the postmaster at Detroit, and found there was a large discrepancy in the date of their issue and the date of the remittance. I returned to Detroit and looked over their account of registers received, and they agreed with statements of the postmasters at Au Sable and Alpena. I then looked over money-order cash-books and failed to find any credits of recent date for either of these offices. I then informed the postmaster at Detroit that the trouble was in his office, and that his money-order superintendent was stealing. We at once called the clerk to explain, who acknowledged his theft. We were unable from the books to ascertain the amount of the embezzlement, as the clerk, W. H. Gregor, was holding remittances from these and other offices from nine to twenty-four days before making any entry or issuing any certificates to the depositing postmaster. Gregor was at once set to work writing up his books and making out certificates for remittances withheld by which shows a deficiency of seven thousand seven hundred and sixty-three (\$7,763,) which amount was promptly remitted by the postmaster of Detroit to

the postmaster of New York. W. H. Gregor will be dealt with according to law. Mr. Mainard, United States district attorney, has it in charge. Remittances were withheld from offices remote and not easily reached, the largest amount being from Traverse City, Grand Traverse County. Funds were also withheld from Hart, Oceana County; Manistee, Manistee County; Hersey, Osceola County; Marine City, Saint Clair County; Ludington, Mason County, and smaller amounts from other places.

This report will answer for all the money-order cases now in my hands, and also explain most of the tardiness of the offices in the State for the last year and a half.

The way in which this transaction has been carried on shows a deep-laid plot of villainy executed with great ability. No inspection of cash-book would show anything wrong, and as the standing of Gregor was good, and connected with some of our best families, Postmaster Swift had unbounded confidence in his honesty and integrity, so much so that, when I told him his clerk was stealing, he replied, "I will bet a thousand dollars to a cent you are mistaken." Five thousand dollars (\$5,000) of the loss falls upon Mr. Brooks, bondsman for Gregor, balance upon Postmaster Swift. Gregor had undoubtedly gambled the money away, as he makes conflicting statements about it.

Respectfully,

JOHN I. KNAPP,
Special Agent Post-Office Department.

Hon. C. F. MACDONALD,
Superintendent of Money-Order Department, Washington, D. C.

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IN THE SENATE OF THE UNITED STATES.

JANUARY 17, 1873.—Ordered to be printed.

Mr. SCOTT, from the Committee on Claims, submitted the following

R E P O R T :

The Committee on Claims, to whom was referred the petition of Richard Barnett, late postmaster at Vicksburgh, Mississippi, have had the same under consideration, and submit the following report :

Richard Barnett, on the 12th of March, 1866, inclosed in a registered letter directed to the Assistant Treasurer of the United States at New York, United States and national bank notes amounting to eight hundred and fifty dollars, intending the same as a remittance in payment of that amount of postages collected by him as postmaster at Vicksburgh, Mississippi. His assistants prove that the money was sealed in the letter, and that it was put in the package mailed that day for delivery at the post-office in New York City, and sent off in the pouch labeled for "Cairo, Illinois," by way of the Southern Mississippi Railroad. It never reached its destination. The Postmaster-General has refused to allow Mr. Barnett credit for it, and he has paid the amount and had his account closed, and now seeks relief of Congress.

Credit was refused Mr. Barnett when he applied for it in 1866, upon the ground that he had assumed the responsibility of making this remittance contrary to instructions. These instructions were contained in the following letters :

A.

POST-OFFICE DEPARTMENT,
Finance Office, July 5, 1865.

SIR: You will deposit, monthly, the whole amount due by you to the Department with the Assistant Treasurer United States at New York, or Saint Louis, Missouri, or the designated United States depository at Louisville, Kentucky, in such funds as are receivable by law, taking duplicate certificates for the amount, and forthwith transmitting one of them in a special letter addressed to the Third Assistant Postmaster-General.

A deposit should be made as soon as practicable after the close of each month, and should not be delayed more than one week. If it be not convenient to attend to the same in person, it is expected that you will embrace the first safe opportunity of transferring your funds by private hands to the point designated, without incurring expense to the Department.

If at any time you fail to deposit, as above directed, within one week after the close of the month, you will report the cause of such failure to the Third Assistant Postmaster-General, and thereby avoid being treated as a delinquent.

Very respectfully, your obedient servant,

A. N. ZEVELY,
Third Assistant Postmaster-General.

R. BARNETT,
Postmaster, Vicksburgh, Mississippi.

B.

POST-OFFICE DEPARTMENT,
Washington, September 29, 1866.

SIR : Your letter of 20th instant is received. I have to say in reply that, having assumed the responsibility of transmitting your monthly deposits by mail, contrary to instructions from this office of July 5, 1865, the Department is not liable and cannot make an allowance for money lost in that way. You will therefore be pleased to act accordingly.

Very respectfully, yours, &c.,

A. N. ZEVELY,
Third Assistant Postmaster-General.

R. BARNETT,
Postmaster, Vicksburgh, Mississippi.

The Department having considered this regulation necessary for its security, and having treated this mode of remittance as a violation of instructions, we cannot encourage similar violations by relieving Mr. Barnett from the consequences of his disregard of the rule prescribed to him, and therefore ask to be discharged from the further consideration of the subject.

IN THE SENATE OF THE UNITED STATES.

JANUARY 17, 1873.—Ordered to be printed.

Mr. MACHEN submitted the following

R E P O R T :

[To accompany bill S. 940.]

The Committee on Claims, to whom the above case was referred, report as follows :

That it appears from the statement of the case, as made by Captain Webster and sustained by many affidavits accompanying the same, he, Webster, in the year 1861, and after the commencement of the war of rebellion, entered into a verbal contract with Captain G. Talmadge, chief assistant quartermaster at Fortress Monroe, Virginia, to build a wharf at Newport News, and keep the same in repair, for the use of the military of the United States as long as the same should be needed, for which said Talmadge, assistant quartermaster as aforesaid, was to pay him a rental of \$250 per month. That he (Webster) did build said wharf, and it was used by the United States Government during the balance of the war, and finally measurably destroyed by a storm of wind dashing a number of United States vessels against the wharf. Captain G. Talmadge, with whom the contract was made, died before any payment had been made on the contract. A number of other officers in service at Fortress Monroe also died or were killed in service, and in this way difficulties succeeded difficulties in the settlement of the claim until the war closed.

By the act of Congress of 1867, the settlements of claims of the character of Webster's is prohibited, and the only remedy now open to him is by the Congress of the United States. Webster's loyalty is fully established during the whole war, and the committee believe he has a just claim against the Government for the use of said wharf, but do not concur in the amount claimed. They reduce the amount to the sum of \$4,208.33, and recommend that the bill be so amended as to pay him that sum.

IN THE SENATE OF THE UNITED STATES.

JANUARY 17, 1873.—Ordered to be printed.

Mr. MACHEN submitted the following

R E P O R T :

[To accompany bill H. R. 309.]

The Committee on Claims, to whom was referred "An act authorizing the Secretary of the Treasury to refund certain moneys to James O. P. Burnside," passed the House of Representatives April 9, 1872, report as follows :

That under the act of Congress passed July 2, 1864, allowing commercial intercourse between loyal and insurrectionary States, Hanson A. Risley was duly appointed purchasing agent at the port of Norfolk, in the State of Virginia. That on the 5th day of December, 1864, the petitioner entered into written contract with said Risley to sell him, as said agent, among other things, 10,000 bales of cotton, products of the States of Virginia and North Carolina, the said Risley, as agent aforesaid, agreeing to pay him the net proceeds of said cotton in the markets of Baltimore and New York, deducting from said net proceeds one-fourth thereof for the United States, delivery of the cotton to be made to said Risley on the Chowan and James Rivers, in the States of North Carolina and Virginia, on or before the 1st day of March, 1865, and for which cotton so delivered the said Burnside was to have safe conduct from the United States.

In accordance with said contract, said Burnside purchased 41 bales of cotton on the 29th day of December, 1864, in the States aforesaid. That he shipped the 41 bales, so purchased, from Elizabeth City, in North Carolina, to Norfolk, Virginia, consigned to said Risley, and the same was seized on the 1st day of January, 1865, by a United States war vessel, under command of Commander W. P. Macomb, United States Navy, and removed to New Berne, in North Carolina, against the protest of Burnside. That said cotton was detained in New Berne by the United States authorities until the 1st day of March, 1865, when it was released to him, Burnside, and he was compelled to pay for storage and expenses, while so detained, \$1,999.72, before he could have it delivered. He also purchased on the 6th day of February, 1865, 51 bales of cotton at Elizabeth City ; and that the United States failed to furnish him transportation, as they were bound to do, until about the 1st of March following, when he shipped the same, consigned to said Risley, at Norfolk, Virginia ; but, before it could reach the port aforesaid, that General Grant, then in command of the Army, suspended, by General Orders No. 48, all operations under said act of Congress, and the vessel having on board said

51 bales of cotton was not allowed to enter the port of Norfolk, but was detained about one month, and it was then returned to Elizabeth City, and then detained until the 11th day of April, 1865.

The shipments of cotton as aforesaid, made by Burnside, were finally forwarded to New York, and then sold by said Risley, the two lots producing the sum of \$31,910.83, gross; from which was deducted, as costs, \$4,775.17, leaving one-fourth of remainder withheld by the United States as its portion under the contract, (\$6,783.79.) That the Court of Claims paid him thereon the sum of \$1,499.79, leaving in the Treasury the sum of \$5,284 as the net products to the Government in said transaction.

The committee recommend that the bill be so amended as to pay to Burnside the above amount.

IN THE SENATE OF THE UNITED STATES.

JANUARY 17, 1873.—Ordered to be printed.

Mr. HOWE submitted the following

REPORT:

[To accompany bill H. R. 2894.]

The Committee on Claims, to whom was referred the bill (H. R. 2894) for the relief of Nicholas José Merrimet, have examined the same, and beg leave to bring in the following as their report:

The petitioner represents that he is the subject of a nation which, during the late civil war, was neutral; that in December, 1863, he was the captain and the owner of a schooner called the *Amelia Ann*; that while on a trading-voyage from Havana to Metamoras the schooner was captured by the steamer *Granite City*, under the command of W. T. Lamson, of the United States Navy; that "the cargo was sent to New Orleans for adjudication, whereas the vessel herself was not sent in, but retained for the use of the Government of the United States;" that in June, 1867, the United States district court for the district of Louisiana adjudged the seizure to be without cause, and that "the vessel and cargo be restored to claimants with costs and damages;" that in pursuance of said judgment the cargo was duly delivered to the owners thereof, *Narcissus de la Flor et al.*, but the schooner was retained as aforesaid by the United States authorities, and the owner, your petitioner, was directed to recover the value of his property from the captors; that he has made every effort to recover from Lamson, but that the latter is insolvent, and he has been unable to obtain any relief from any source; that the schooner was worth at least the sum of \$1,450, and that she has been injured to the extent of \$3,000; whereupon he prays relief.

The petitioner is an alien, upon his own confession. In a letter addressed to the late Greek minister, Mr. Merrimet claims to be a subject of the King of Greece.

Yet it does not appear that the justice of his claim has been recognized by his own government. He comes before Congress upon his own petition, and not upon any representation of his government.

His petition is unsupported by testimony, except such as is afforded by brief extracts from the record of the United States district court for the district of Louisiana in the case of *The United States vs. The Schooner Amelia Ann*. Such extracts could hardly be received as evidence of anything, for the reason that they do not purport to be a copy of the record in the case, but of a part of the record only.

But if they prove anything, they only prove what they say. What they say is, that the schooner *Amelia Ann* had no papers on board at the time of her capture which could "be held in the slightest degree to justify her capture;" wherefore, it was decreed that the vessel *be restored* to her claimant and that the claimant recover, not of the United States, but "of the captors, the sum of \$1,450, the amount awarded him as damages by the experts."

So it has been judicially ascertained how much the claimant has been wronged and who wronged him. Yet the bill proposes not only to make the United States pay for Lamson's misconduct, but to make us pay nearly 20 per cent. more than Lamson himself was required to pay.

It would seem as if the Government ought not to be charged a premium for the privilege of discharging Commander Lamson's debts.

Indeed, it is difficult to understand why the Government should pay such debts.

It is suggested that Lamson cannot be found, and that he is insolvent. If he really cannot be found, it cannot well be known that he is insolvent. But the United States does not assume the liabilities of its citizens or its officers simply because they have the fortune to fail or the fancy to abscond.

It is suggested that the Government used the schooner. If that were so, the Government perhaps might pay an equivalent for such use. But there is no proof in the case that the Government did use the vessel. The judge, in his opinion, recites that there was "evidence in the case that a * * * use was made of the vessel since her capture by the United States authorities." What that evidence was—what the use or value of it was—does not appear.

If the vessel was used at all, its use would seem to have been temporary. It was the duty of the officer seizing the vessel to send her in to the court having jurisdiction, to try the legality of the capture. In the absence of clear proof to the contrary, it must be assumed that the captors did their duty in that regard.

Under the act of June 30, 1864, the vessel might have been appropriated to the use of the Government. But in such case it was the duty of the captors to have her surveyed and appraised, and that department of the Government for whose use she was taken was required to deposit in the Treasury a sum equal to her value, to abide the judgment of the court.

But in this case it seems probable the vessel herself was sent in. The judgment of the court was for her "return," and it is to be inferred the court was in possession of and was so enabled to return her. Besides, it appears from a letter received from the Navy Department that nothing is known there of the existence of that schooner.

It is therefore recommended that the bill be indefinitely postponed.

IN THE SENATE OF THE UNITED STATES.

JANUARY 17, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT :

[To accompany bill S. 1127.]

The Committee on Claims, to whom was referred the bill (S. 1127) for the relief of Charles W. Willey, report :

The bill directs the payment to Charles W. Willey, deputy marshal, commissioned to take the ninth census in subdivision 82 of the district of Kansas, for services of persons employed by him to assist in taking the census in his district, the sum of \$300.

Whether Mr. Willey was deputy marshal, as is claimed; whether he employed the services of anybody, as is assumed; what his pay has been, and whether he deserves more, are questions the committee are wholly unable to answer, as no testimony whatever has been submitted to them, and they ask to be discharged, therefore, from further consideration of the bill.

IN THE SENATE OF THE UNITED STATES

REPORT OF THE

COMMISSIONERS OF THE

LAND OFFICE

IN RESPONSE TO A

RESOLUTION OF THE

SENATE

PASSED MAY 10, 1845

IN THE SENATE OF THE UNITED STATES.

JANUARY 17, 1873.—Ordered to be printed.

Mr. SCOTT, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to whom was referred the petition of William L. Anderson, praying compensation, &c., have examined the same and bring in the following as their report :

The petitioner makes the following statement :

That he is and always has been a loyal citizen of the United States and resided in Rockingham during the rebellion, and that he was engaged for a considerable portion of the time in aiding the escape of loyal citizens liable to arrest and conscription by the confederate government and in furnishing supplies to deserters from the confederate army. That in addition to the risk of life and liberty he thus incurred he expended the greater portion of his available means. At the same time he had in his service a young lady by the name of Mary Hoover, and her services were devoted to this object. He believes that he underestimates the amount of his losses incurred in this way when he puts it at \$3,000. In addition to this he respectfully submits that his services, especially when the risk and danger incurred is taken into consideration, were justly worth, at the very least, \$5,000 to the Government of the United States. He therefore respectfully prays that Congress shall re-imburse to him the amount so expended, and direct the payment to him of the amount claimed for his services aforesaid.

The foregoing statement of the petitioner is sworn to by him.

The statements of the foregoing petition, so far as they relate to services rendered and not to money expended, are corroborated by numerous affidavits, and afford strong ground for believing that the petitioner was a loyal citizen, a sound patriot, and a generous man. As such, it is a pleasure to record the story of his services in the archives of the Government.

There were millions like him in the United States. Some contributed of their means, their money, or their efforts, to the service of the country. A hundred thousand were disabled in its service ; another hundred thousand gave their lives.

Such patriotic and generous citizens as Mr. Anderson seems to be constitute the wealth of the republic, because they are ready always to aid the weak and to guide the wandering, and to do it for nothing.

If, on the contrary, the Government had to pay them \$5,000 each, they would make the Government very poor.

The committee are persuaded that, on reflection, Mr. Anderson will come to cherish the memory of his disinterested patriotism more dearly than he ever could cherish the money he asks for.

The committee, therefore, ask to be discharged from the further consideration of the petition.

IN THE SENATE OF THE UNITED STATES

REPORT

OF THE

COMMISSIONERS OF THE LAND OFFICE

REPORT

OF THE COMMISSIONERS OF THE LAND OFFICE, IN RESPONSE TO A RESOLUTION PASSED BY THE SENATE, MARCH 10, 1875, RELATIVE TO THE LANDS BELONGING TO THE UNITED STATES.

The following is a summary of the report of the Commissioners of the Land Office, in response to a resolution passed by the Senate, March 10, 1875, relative to the lands belonging to the United States. The report is divided into two parts: the first part contains a general statement of the condition of the public lands, and the second part contains a detailed statement of the lands belonging to the United States, and of the measures proposed for their disposal.

The first part of the report contains a general statement of the condition of the public lands. It states that the public lands are now more numerous than ever before, and that they are of great value to the United States. It also states that the public lands are now being disposed of more rapidly than ever before, and that the proceeds of their disposal are being used for the benefit of the United States.

The second part of the report contains a detailed statement of the lands belonging to the United States, and of the measures proposed for their disposal. It states that there are now about 100,000,000 acres of land belonging to the United States, and that it is proposed to dispose of about 50,000,000 acres of this land in the next five years. It also states that the proceeds of the disposal of this land are being used for the benefit of the United States.

IN THE SENATE OF THE UNITED STATES.

JANUARY 17, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 2951.]

The Committee on Pensions, to whom was referred the bill (H. R. 2951) granting a pension to Mary J. Morse, submit the following report :

The bill gives to the widow of the late Dr. J. H. Morse, of Lawrence, Massachusetts, a pension at the rate of \$17 per month. It is alleged and proved that her husband was a contract surgeon. The contract bears date 22d May, 1862, and was determinable at any time by either party, and the rate of compensation fixed was \$100 per month. The memorial shows that Dr. Morse was discharged the service on June 27, 1862, or a few days over a month from the date of the contract, and that he died of disease contracted in the service the 26th day of July following.

It appears from correspondence with the Pension-Office that no application for a pension has been made by the widow. No excuse is offered in her memorial for not doing so. She came to Congress for relief more than nine years after the death of her husband, and during all this time she was silent on the subject of having a claim for a pension. This delay is unexplained and is the only suspicious circumstance in the case. As the committee understand the pension-law, Mrs. Morse had a complete remedy at the Pension-Office until her claim was barred by lapse of time. The act of March 3, 1865, in the second section, provides for the widows of acting assistant or contract surgeons disabled by any wound received or disease contracted while actually performing the duties of assistant or acting assistant surgeon with any military force in the field or *in transitu*. The necessity of their being mustered into service is dispensed with. Nothing could have been more liberal than this legislation, and it embraces Mrs. Morse's case; and with the evidence she produces before the committee it is probable she would have received a pension in the usual way. At all events, that testimony would have been submitted to a tribunal furnished with ampler means for getting at the truth than this committee. Mrs. Morse had before her the act of July 4, 1864, which provide that no pension claim, unless prosecuted to a successful issue within five years from filing it, should be admitted without satisfactory record evidence from the War Department establishing that the cause of death originated in the service and in line of duty. Here was a warning too clear to be misunderstood; that inasmuch as she could not appeal to the Department successfully for evidence in her husband's

case, she should, by the 4th of July, 1869, prosecute her claim to a successful conclusion or be barred a pension. She did not heed the warning. Nearly ten years after her husband's death she came to Congress with her claim. We think if she had a good claim she could and should have asserted it at the Pension Bureau.

We recommend that the bill do not pass.

IN THE SENATE OF THE UNITED STATES.

JANUARY 17, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill S. 1052.]

The Committee on Claims, to whom was referred the bill (S. 1052) referring the claim of John H. Russell to the Court of Claims, submit the following report :

The evidence submitted to the committee by the claimant in support of his claim consists of two affidavits, as follows :

DISTRICT OF COLUMBIA, *City of Washington, D. C. :*

Personally appeared this 13th day of May, 1872, before me, a notary public within and for said city and District, John H. Russell, who, being duly sworn, deposes and says that in March, 1864, he was the owner of the steamer John H. Russell, destroyed by fire in said month and year in consequence of the acts of the officers of the United States Army, as set forth in a bill for his relief, recently referred to the Committees on Claims in the Senate and House of Representatives of the United States, and referring his said claim for the destruction of said vessel and portion of cargo, and by him to the United States Court of Claims.

Deponent further says that the reason that he has not sooner prosecuted his claim for the destruction of said vessel, within the time limited for the prosecution of actions in the United States Court of Claims, is that it is only within the last month or two that he has been able to find the witnesses to prove the facts which he was advised it was necessary to prove to enable him to establish his claim in the United States Court of Claims; that deponent has made diligent search and inquiry and used every effort to find the witnesses to prove said facts, being convinced of the justice of his claim, and that the facts were as he is now able to prove them, is that the destruction of his vessel was caused by the acts of the enemies of the United States, who took the opportunity of getting on board his vessel, while stopped, contrary to his orders, at Baton Rouge, Louisiana, by the officers of the United States Army, and who set fire to and destroyed said vessel, while so held or impressed by the United States military authorities, and because she was so employed in the Government service. But deponent says that, notwithstanding his said efforts, he was unable to obtain said testimony, which he is convinced will now enable him to establish his claim, until within the last month or two, as aforesaid and after it was barred in the Court of Claims. Deponent would further state that he did not think it worth while to present said claim until he knew he could get the testimony to support it. And he would further state, if such may be considered any excuse for his delay, that he was not aware of the limitation of time for the presentation of claims to the United States Court of Claims, and that he would be barred by his said delay in commencing his action, for the reason aforesaid.

JOHN H. RUSSELL.

Sworn to and subscribed before me this 13th day of May, A. D. 1872.

DAVID R. SMITH,
Notary Public.

WASHINGTON, D. C., January 9, 1873.

J. H. Russell, being duly sworn, deposes and says that on the 27th day of March, 1864, he was captain and sole owner of the steamer named the J. H. Russell; that he was then running her in the coasting trade between New Orleans and Vicksburgh. On the 26th day of March, 1864, I left Vicksburgh with the boat for New Orleans. At Vicksburgh, I gave orders to my clerks to take no passengers only for Natchez, Waterproof, and New Orleans, they being the only places I was going to land at. I took on cotton at Natchez, and opposite Natchez, that evening, and left in the morning of the 27th of March, 1864, for New Orleans. Betwen 7 and 8 p. m. that evening, I was going by Baton Rouge. The United States military forces stationed at that place fired a cannon and brought me to, and placed on board some United States soldiers and officers, and their horses, and their army equipments and commissary stores, and ordered me with my boat to proceed at once with them for Donaldsonville and New Orleans, which orders I immediately obeyed. While I was lying at the landing at Baton Rouge. I am informed that two men got on board with Greek-fire and set my boat on fire. In about an hour after I left the landing of Baton Rouge, upon discovering the boat to be on fire, I ran her ashore at Plaquemine, about 20 miles below Baton Rouge, landed every person on board—no lives lost. I had the fire-pumps working, and was putting out the fire, when some one cut the hoses, or uncoupled them from the pumps, and the boat soon burned, and everything on board was lost, except two or three hundred bales of cotton, which was in the hold of the boat, and she sank in six or seven feet of water. The boat proved to be a total loss. I never received one dollar from the sale of the cotton which was saved, as the underwriters took possession of the cotton. I had no insurance on the boat.

J. H. RUSSELL.

Subscribed and sworn to before me, this 9th day of January, 1873.

CHARLES WALTER, J. P.

Beyond these affidavits there is nothing put in evidence, except a pamphlet of 75 pages, containing the printed testimony in certain cases of John H. Russell *vs.* The United States, in the Court of Claims, for the recovery for the use of and damages to three steamers belonging to him, impressed into the service of the United States by military authorities. But there is nothing in all that testimony relating to his present claim worthy of being quoted, except that part showing the value of the boat to have been \$100,000, and that it was burned, not at Baton Rouge, as Russell swears, but at Plaquemine, some 50 miles below, and 110 miles above New Orleans. The latter fact is proved by the clerk on board his boat at the time it was burned.

Having given all the evidence furnished by Mr. Russell, it is proper, before discussing the merits of his claim on his own presentation of it, to refer to the evidence furnished the committee from the War Department.

It appears, from papers so furnished, that on the 5th day of August, 1867, Mr. Russell addressed a letter to Mr. Stanton, then Secretary of War, giving a statement of the circumstances attending the burning and total loss of his steamboat, J. H. Russell, off Plaquemine, on the Mississippi River, on the 27th day of March, 1864. In this statement he sets forth that his vessel was making a trip from Vicksburgh to New Orleans, commanded by himself, and loaded with cotton and passengers, and that he gave orders to the clerk of the boat to take no passengers except for Natchez, Baton Rouge, and New Orleans, as, having a large load of cotton, he did not wish to land at any other point; that a passenger who had made the trip up from New Orleans to Vicksburgh took passage with him, on his return, for New Orleans; and when about two miles below Plaquemine the passenger reported to the clerk that he wished to land at the latter place, when he was informed that it was against orders to land at that point. This man, and some others who appeared to be acting with him, commenced making a disturbance because of the order not to land. Mr. Russell proceeds to say that, in order to get rid of these men, he concluded to land at Plaquemine, and

did so. The landing was made at 9 o'clock p. m. on the 27th of March, when the steamboat was set on fire by John Crothers, a watchman on board, just as the boat was making the landing. It was set on fire by igniting a barrel of coal-oil in a locker under the stairs, about which half a bale of loose cotton was collected, and a torch basket filled with pine-knots saturated with coal-oil. Crothers left the boat, and lent no aid to put out the flames, and never appeared to claim his wages; and when Richmond was captured and the archives of the rebel government were examined, and showed the existence of a contract under which certain parties undertook to destroy the shipping on the Mississippi River, Crothers left the country. This man Crothers had been in Russell's employ for several months in the capacity of watchman on his boat.

The archives referred to disclose a proposition, made on the 12th April, 1864, to the rebel government, by one Joseph Stinson, to commit this species of damage, and it appears, from a letter of James A. Sedden, the secretary of war of the Confederate States government, dated May 5, 1864, that one Isaac V. Aleshire had preferred a claim "for one-tenth of the value of a Federal steamer, Russell, and cargo," destroyed by him under an agreement with this Stinson as the latter's secret agent. Mr. Sedden informs Mr. Aleshire that the board to consider and adjust such claims had not been appointed, and the matter must be deferred until the appointments were made, when it could be brought to their notice. This letter establishes the point that this species of service was performed with the approbation of the Richmond government, and under some arrangement by which the compensation was to be graduated by the value of the property destroyed.

The committee have referred to the statement which the memorialist furnished Mr. Stanton, for the purpose of showing its entire variance with the account he now gives of the destruction of his vessel. The two cannot be reconciled. Without expressing any opinion upon the case he makes in his memorial—or in his affidavits, rather—it is sufficient to say that the one made to the Secretary of War clearly furnished no ground whatever for a claim on the Government for compensation; nor do the committee perceive any reason for doubting that was a correct version of the affair. How shall we credit his present statement, that his boat was destroyed at Baton Rouge, when his own clerk swears it was burned at Plaquemine, and when Mr. Russell himself says the same thing in his letter to the Secretary of War? What shall we think of his claims to truth when, in 1867, he stated that the boat was set on fire by his own watchman; that the boat was landed, not at Baton Rouge, but Plaquemine, and then, not because of persuasive cannon, fired across her bow by Federal officers, but by the clamors of certain passengers on the boat. The committee can find no merit in the claim, and recommend that the bill be indefinitely postponed.

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THE HISTORY OF THE UNITED STATES
OF AMERICA
FROM 1763 TO 1876
BY CHARLES A. BEAMAN
VOLUME I
NEW YORK
1876

The history of the United States from 1763 to 1876 is a story of growth and development. It begins with the thirteen original colonies, which were established by English settlers seeking freedom and opportunity. These colonies grew into a powerful nation, and in 1776, they declared their independence from Great Britain. The American Revolution was a turning point in the nation's history, as it established the United States as a sovereign state. The new nation faced many challenges, including the War of 1812, but it emerged as a stronger and more unified country. The 19th century was a time of great change and progress. The United States expanded its territory, and its economy grew rapidly. The Civil War, which lasted from 1861 to 1865, was a major event in the nation's history, as it resolved the issue of slavery and preserved the Union. The Reconstruction era followed, and the United States emerged as a more unified and powerful nation. The 20th century has been a time of great change and progress. The United States has expanded its influence around the world, and its economy has grown rapidly. The Civil Rights Movement, which lasted from the 1950s to the 1960s, was a major event in the nation's history, as it resolved the issue of racial discrimination and preserved the Union. The Reconstruction era followed, and the United States emerged as a more unified and powerful nation. The 20th century has been a time of great change and progress. The United States has expanded its influence around the world, and its economy has grown rapidly. The Civil Rights Movement, which lasted from the 1950s to the 1960s, was a major event in the nation's history, as it resolved the issue of racial discrimination and preserved the Union. The Reconstruction era followed, and the United States emerged as a more unified and powerful nation.

IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1873.—Ordered to be printed.

Mr. CARPENTER submitted the following

REPORT:

[To accompany bill H. R. 2993.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 2993) entitled "An act for the relief of the sufferers by fire in Boston," which act is as follows :

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be allowed and paid, under such regulations as the Secretary of the Treasury shall prescribe, on all materials, except lumber, imported into the port and district of Boston and Charlestown, to be used, and actually used, in the construction and completion of buildings erected on the site of buildings burned by the fire of November 9 and 10, 1872, a drawback of the import duties paid on the same; (and such drawback shall be allowed on such goods so imported and so used as shall be in warehouse on the day this act goes into effect:) Provided, That said materials shall have been imported and used during the term of one year from and after the passage of this act"—

respectfully submit the following report :

Your committee understand that this bill was referred to obtain their opinion in regard to its constitutionality ; therefore only that question will be considered.

Whether the bill be constitutional or not depends upon the construction to be given to those provisions of the Constitution which relate to foreign commerce ; and Boston, a great commercial metropolis, has an interest in the preservation of the integrity of the Constitution in this behalf far exceeding any benefit which might be derived by its citizens from the provisions of this bill.

The Constitution should be so construed as to give effect to the intention of its framers as evidenced by its language ; and where its language is doubtful that intention may be ascertained by consulting the circumstances under which the Constitution was adopted, the evils which were found to exist under the previous confederation of States, and the objects intended to be secured by the "more perfect union" which the Constitution was designed to establish. It is well known that the interests of commerce formed one of the principal motives for adopting the Constitution. Thirteen or thirty-seven independent States, with thirteen or thirty-seven variant tariffs and conflicting commercial systems, would be disastrous to the commercial interests of our people. To avoid this, and to consolidate the States into one nation for the purposes of trade and commerce, was a great inducement to the adoption of the Constitution. And of all the ends secured by that instrument none is more prominent and none is guarded with greater solicitude than this, that all the States shall enjoy equal privileges of commerce. The Constitution protects inland States against exactions of States on

the sea-board, and every sea-board State is protected against combinations of several States. Article 1, section 8, provides :

The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States ; but all duties, imposts, and excises shall be uniform throughout the United States.

That is, all that may be done by Congress, in the way of providing by taxes and duties for paying the debts and providing for the common defense and general welfare of the United States, is subject to this limitation and qualification that "all duties, imposts, and excises shall be uniform throughout the United States."

To provide for the common defense and general welfare comprehends the whole duty of a national government, and if not even to secure this is it permitted by the Constitution to violate this rule of uniformity, it is clear that it may not be violated for temporary objects or to accomplish local purposes.

The Supreme Court of the United States, by Marshall, Chief Justice, has declared that the phrase "throughout the United States" includes the District of Columbia and every spot and place subject to the jurisdiction of the United States."

Section 9 of the same article provides :

No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another.

These provisions of the Constitution secure to every State all the advantages and subject it to all the burthens in regard to commercial regulations enjoyed and borne by other States of the Union. Speaking of the provision which requires uniformity in laying duties, Story (Comm. Const., section 957) says :

It was to cut off all undue preferences of one State over another, in the regulation of subjects affecting their common interests. Unless duties, imposts, and excises were uniform, the grossest and most oppressive inequalities, vitally affecting the pursuits and employment of the people of different States, might exist. The agriculture, commerce, or manufactures of one State might be built up on the ruins of those of another ; and a combination of a few States in Congress might secure a monopoly of certain branches of trade and business to themselves, to the injury, if not to the destruction, of their less favored neighbors. The Constitution, throughout all its provisions, is an instrument of checks and restraints, as well as of powers. It does not rely on confidence in the General Government to preserve the interests of all the States. It is founded in a wholesome and strenuous jealousy, which, foreseeing the possibility of mischief, guards with solicitude against any exercise of power which may endanger the States, as far as it is practicable. If this provision as to uniformity of duties had been omitted, although the power might never have been abused to the injury of the feeble States of the Union, (a presumption which history does not justify us in deeming quite safe or certain,) yet it would of itself have been sufficient to demolish, in a practical sense, the value of most of the other restrictive clauses in the Constitution. New York and Pennsylvania might, by an easy combination with the Southern States, have destroyed the whole navigation of New England. A combination of a different character between the New England and the Western States, might have borne down the agriculture of the South ; and a combination of a yet different character might have struck at the vital interests of manufactures.

A construction of the Constitution which defeats its acknowledged purpose is a perversion of the Constitution ; and any bill which would accomplish what the Constitution intended to prohibit is unconstitutional. The cunning with which a particular bill may be framed to avoid conflict with the Constitution, in language, will not rescue it from objection if the end it would accomplish be one which the Constitution forbids. This rule of constitutional construction has often been declared by the Su-

In *Bronson v. Kinsie*, 1 How., 311, the Supreme Court, by

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Taney, C. J., in construing that provision of the Constitution which declares that no State shall impair the obligation of a contract, say :

Whatever belongs merely to the remedy may be altered according to the will of the State, provided the alteration does not impair the obligation of the contract. *But if that effect is produced, it is immaterial whether it is done by acting on the remedy, or directly upon the contract itself. In either case it is prohibited by the Constitution.*

And again they say :

And no one, we presume, would say that there is any substantial difference between a retrospective law declaring a particular contract or class of contracts to be abrogated and void, and one which took away all remedy to enforce them, or incumbered it with conditions *that render it useless or impracticable to pursue it.*

The same principle is declared in *Green v. Biddle*, 3 Wheaton, 1, *McCracken v. Hayward*, 2 How., 608, and in the passenger cases, 7 How., 283. Indeed, the principle is so obvious that it stands in no need of support by authority.

It is evident that a bill providing that imported articles shall pay a certain duty, but that the importer, on making proof to the satisfaction of the Secretary of the Treasury that he has paid the duties, shall receive from the Treasury an amount equal to the duties paid, is equivalent to declaring that such articles shall be admitted free of duty. The constitution of several of the States declares that the rule of taxation shall be uniform; that is, that taxation shall bear equally upon all persons in proportion to the taxable property they possess. Therefore, a law which should declare that a certain class of persons—for instance, all lawyers, all physicians, or all merchants—should pay taxes, but on *proof* of payment should be entitled to receive from the Treasury an amount equal to the amount of taxes paid by them, would be a palpable evasion of the Constitution, and such act would be void. A payment made under an existing provision of law that the amount paid shall be immediately refunded, is not a payment in any proper sense. Duties paid under such a provision of law are not paid at all. A debtor who passes money to his creditor with the right hand, and takes it back with the left, makes no payment.

Bearing these views in mind, let us consider this bill. It provides that there shall be allowed and paid, upon all materials imported into the ports and district of Boston and Charlestown, to be used, and actually used, in the construction and completion of buildings erected on the site of buildings burned by the fire of November 9 and 10, 1872, a drawback of the import duties paid on the same, provided that said materials shall have been imported and used during the term of one year from and after the passage of the act. The fire “of November 9 and 10, 1872,” means, not all fires which occurred in the United States on those days, but the fire which on those days occurred in Boston. If this bill be constitutional for one year, it would be for ten years, or for all time. The question, therefore, is, whether Congress can provide that certain articles, imported at the port of Boston, and used in that city, shall be free of duty, while the same articles imported at the port of New York, and used in that city, or imported at any other port of the United States, and used in any part of the United States, shall pay a prescribed duty. In other words, the question is, whether such a law imposes uniform duties throughout the United States, and gives no preference to the port of Boston over the ports of other States. Of all questions submitted for discussion, one to which the answer is self-evident is the most difficult to deal with. And your committee are at a loss to determine what argument can make the conflict between this bill and the Constitution more evident than appears upon their face.

In the first place, the Constitution declares—

No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another.

If the bill under consideration shall become a law, it will be a part of the commercial system of the United States, and it will then, in effect, be provided that all building-materials imported into the United States, and used in the city of Boston, shall pay a certain duty; provided, however, that if such articles shall be imported at the port of Boston, and used in that city, they shall be free of duty. The Constitution, in providing that no preference shall be given to the ports of one State over those of another, means, of course, that no regulation of commerce or revenue shall be made which shall render it more advantageous to the importer to enter his goods at one port than at another. If this bill shall become a law, a merchant in Boston, wishing to rebuild his store in the burnt district, can import his materials duty-free at the port of Boston; but if he enters such materials at the port of New York, and conveys them by rail to Boston, he must pay a prescribed duty. If it can be maintained that a regulation of commerce which declares that goods imported at a specified port shall pay no duty, but if imported elsewhere shall pay duty, does not make a preference in favor of the port of free entry, then this bill goes clear of that objection. If a statement of this proposition does not suggest its unsoundness, your committee despair of showing the unconstitutionality of this bill.

But as that part of the bill which gives preference to the ports of Boston and Charlestown might be stricken out in the Senate, your committee proceed to consider whether the bill would be constitutional should it be thus amended.

The other provision of the Constitution is that "All duties, imposts, and excises shall be uniform throughout the United States."

It is contended that if an article imported and entered at any port of the United States, but to be used for a certain purpose, be admitted free of duty, the rule of uniformity is not violated; and from this proposition it is argued that a law permitting building-materials to be entered at any port of the United States free of duty, to be used in the city of Boston only, is constitutional. But it is believed by your committee that a slight examination of this conclusion will convince every one of its unsoundness.

Keeping in view the end which the Constitution intended to secure—that is, that all the States should be on an equal footing so far as duties, imposts, and excises are concerned—that the Constitution was intended to prevent the evil which would result to a particular State from the combination of other rival States, let us consider to what results the principle contended for leads.

If this bill be constitutional, then a similar bill in relation to any or all other imported articles would also be constitutional. If building-materials, or other articles imported into the United States at any port, to be used in Boston, may be free of duty, then the provisions of the bill might be extended to articles to be used in the State of Massachusetts or all New England. And a law which should provide that all hides imported into the United States and manufactured into leather in New England, and all wool imported into the United States and manufactured into yarn or cloth in New England, should be exempted from duties otherwise imposed, would be constitutional. But what would be the practical result of such a law? It would be to give to New England the monopoly of woollen

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and leather manufactures. It is contended that the rule of uniformity would not be violated by such a law, because a citizen of Wisconsin might import hides or wool at the port of Charleston, South Carolina, free of duty, provided he should transport the same to New England, and there manufacture them into leather or woolen cloth. But this is evidently sticking in the bark. Such a bill, if it conformed to the letter, would violate the spirit and defeat the purpose of the Constitution; for while the citizen of Wisconsin might enjoy the benefit of such a law by removing to New England, or conducting his business there, what would the State of Wisconsin say to a commercial reputation which should compel her citizens to transfer their capital and business to New England, or offer them a premium or inducement to do so? Or, to turn the point of this argument against New England, suppose Congress should pass a law that raw materials imported into the United States and manufactured in any part of the Union except New England, should be free of duties imposed as to New England, would not such discriminating law utterly ruin that flourishing manufacturing section? Could the tanners and shoemakers of Lynn pay any duty which Congress might choose to impose upon them, and still compete with other sections of the country paying no duties whatever? This would be the precise evil which Story says is prevented by this provision of the Constitution. Without this provision, he says,

The agriculture, commerce, or manufactures of one State might be built up upon the ruins of those of another, and a combination of a few States in Congress might secure a monopoly of certain branches of trade and business to themselves to the injury, if not to the destruction, of their less-favored neighbors.

Chicago and Saint Louis are rival cities. Suppose a bill to be passed by Congress providing that all building-materials imported into the United States, and actually used in Saint Louis, should be admitted for twenty-five years, or an indefinite time, free of duties imposed by law upon all building-materials used in Chicago. Would not such a bill make a discrimination in favor of Saint Louis most injurious to Chicago? Suppose a bill to pass Congress providing that all building-materials or raw materials imported into the United States, and used or manufactured in the State of Pennsylvania, should be free of duties imposed upon all such materials imported into the United States, and used or manufactured in the State of New York. Is it not evident that the effect of such a law would be to give Philadelphia great advantages over New York? Or suppose a law to provide that all merchandise imported into the United States, provided it should be sold by retail, or in broken packages, in the State of Pennsylvania, should be free of duties imposed in all other cases. Would not such law destroy the commercial interests of New York? Certainly it would, if the duties generally imposed by law were high enough to present an inducement to the importer to pass by the port of New York and enter his goods at the free port of Philadelphia. Indeed it is too evident to require further illustration that, if Congress may pass this bill, it may pass a bill which, by its onerous duties and capricious exemptions, would divert commerce from one State to another at pleasure. And this is the very thing the Constitution was intended to prevent.

Your committee do not doubt that an act which should provide that materials imported and used to replace buildings destroyed by fire in any part of the United States; or a bill which should provide that hides and wool imported and manufactured into leather or cloth in any part of the United States, should be admitted free of duty; or on proof that the duties had been paid, the importer should be entitled to an equal

amount from the Treasury, would be constitutional; would be constitutional, because it would be uniform in its operation and effect throughout the United States, and would give no preference to one State over another, nor tend to build up the manufacturing or commercial interests of one State at the expense of another. But, in the opinion of your committee, it cannot be maintained that a commercial regulation is uniform throughout the United States which requires the citizens of the several States to remove their capital and business to a particular State to enjoy its benefits. When we consider that the States which formed the Union were rivals and jealous of each other; that one great motive to the formation of the Union and the adoption of the Constitution was to secure to all the States equal privileges and advantages in commerce and manufactures, and that two provisions were inserted in the Constitution to secure this end, your committee cannot hesitate to declare that Congress has no power to pass this bill.

But it is said that the precedents support the bill. To this it may be answered, that the Constitution is an abiding and continuing command; and that nineteen violations of it will not justify the twentieth. It may be that unimportant bills have been passed by Congress which violate the principles of the Constitution in this respect; but it is believed that in all such cases, except one which will be hereafter particularly mentioned, the bills have passed without serious opposition, and, therefore, without full consideration. Instances may be found where Congress has authorized certain articles to be imported for particular colleges or charitable institutions free of duty; but in such cases the articles have been specified in the act, and the duty, which would otherwise have been collectable, was trifling. And it is believed that in none of these cases has the constitutional objection been urged or considered. It is a principle declared by all the courts that although a certain point was involved in the record, and in effect concluded by judgment, it is not to be regarded as a precedent in other cases, unless raised by counsel or expressly passed upon in the opinion of the court. This reasonable maxim of jurisprudence applies with full force to the bills above alluded to. That Congress has *inadvertently* passed one or many bills which conflict with a plain provision of the Constitution, can afford no justification for the passage of another such bill against which the objection is raised, and brought clearly to the consideration and pressed upon the conscience of Congress.

A bill similar to the one under consideration was passed in the case of the fire at Portland; but it seems to have passed without consideration, certainly without discussion. The objection that it was unconstitutional was not raised by either House. A like bill was passed in the case of the Chicago fire, at the last session. This objection was made in the Senate. The bill was reported by the Committee on Finance, but was not considered by the Committee on the Judiciary; and it is fair to presume that the sympathy of Senators for the sufferers in that unparalleled calamity contributed more to the passage of the bill than the deliberate judgment of the Senate upon the constitutional question.

The occurrence of the Boston fire has brought the matter again to the consideration of Congress, and this is the first time your committee have been directed to consider the constitutionality of such a bill. The importance of the subject, and the fact that a calamity by fire cannot be distinguished from one produced by a flood, a hurricane, an earthquake, or any other visitation outside of the ordinary course of things, what if Congress attempts to insure against one it must only justifies but calls for a reconsideration of the sub-

ject, and makes it necessary to determine the principles to be applied in all such cases. If, in view of all these considerations, Congress shall pass this bill, it is not perceived by your committee upon what ground Congress could refuse relief to individual sufferers. How many buildings must be destroyed to justify the interference of Congress? Must there be a thousand, or five hundred, or one hundred, or fifty, or five? Where is the line to be drawn? Must not Congress become the great almoner of the nation—a great insurance company for forty millions of people?

An attempt is made to justify this bill upon the ground that it is substantially a drawback of duties; and it is said that drawbacks are as ancient as duties. To this two answers may be made: first, a drawback, as understood by all the commercial world, is a rebate of duties upon articles imported into, and subsequently exported in unbroken packages from a country. This is not a case of drawbacks; the provisions of the bill relate to articles to be used, that is consumed, in this country.

In the second place, under our Constitution, drawbacks must be as uniform as duties. A law which should provide that all goods imported into, and exported in unbroken packages from, the State of New York, should have a drawback of duties, without providing for such drawback in case of goods imported into and exported from the ports of other States, would make a preference in favor of the ports of the State of New York, and violate the rule requiring uniformity throughout the United States.

If it be said that the bill is in effect a mere appropriation of money out of the Treasury, and that Congress has a power of appropriation limited only by the fact that the appropriation must be made “to pay the debts and provide for the common defense and general welfare of the United States,” the answer is plain. The bill does not provide for paying any debt or for anything necessary to the common defense. Nor is it an appropriation for the “general welfare.” The bill is essentially a local measure. But, in the language of Story, “a power to lay taxes for the common defense and general welfare of the United States is not in common sense a general power. It is limited to those objects. It cannot constitutionally transcend them. If the defense proposed by a tax be not the common defense of the United States, if the welfare be not general, but special or local, as contradistinguished from national, it is not within the scope of the Constitution. (1 Story’s Com. on Con., sec. 922.)

It requires no argument to show that the power of appropriation is no broader than that of taxation; and, therefore, as Congress cannot lay taxes for a merely local purpose as contradistinguished from a national one by taxation, so it cannot appropriate money for such local purpose.

Upon the best consideration they have been able to give to this subject, your committee are compelled to report that the bill under consideration violates both the provisions of the Constitution above quoted, and ought not to pass.

IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1873.—Ordered to be printed with report No. 311.

Mr. EDMUNDS, from the Committee on the Judiciary, submitted the following as the

VIEWS OF THE MINORITY:

On the bill entitled "An act for the relief of the sufferers by fire in Boston."

The purpose of referring this bill to the Committee on the Judiciary is understood to have been to obtain its views respecting the constitutionality of laws of this character. This question of constitutionality arises chiefly, and perhaps in a mere legal sense entirely, under the 8th section of the first article of the Constitution, the first clause of which reads as follows:

The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises, shall be uniform throughout the United States.

Another clause gives Congress the power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes.

Another clause gives it the power to establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States.

One clause of section 9 declares that "no capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken."

Another clause declares that "no tax or duty shall be laid on articles exported from any State."

And still another declares that "no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another."

The power of laying duties, &c., conferred by the first clause above quoted, has been held to refer exclusively to the taxing power, and not to the power to regulate commerce.—(*Gibbons vs. Ogden*, 9 Wheat., 1.)

The chief question then is, whether a bill which, for a particular purpose and in a particular emergency, is believed by Congress to be one promotive of the "general welfare of the United States" and which proposes in substance to remit the "duties, imposts, and excises" upon a particular class of property designed for a particular use, and which the bill authorizes to be brought into any port of the United States, by any citizen of the United States, for that object, is in conflict with the provision that "all duties, imposts, and excises shall be uniform throughout the United States."

Literally, it would seem that no such objection could possibly be raised, unless the use to which the goods authorized to be imported

everywhere by every citizen is to be taken as a controlling element in the question of uniformity. To hold this would seem also to require that in every case, in order to the uniformity, the duties on property imported should be imposed without variation as to rate or exception as to things.

Although little, if any, light is thrown upon the design of the framers of the Constitution in inserting this clause in its recorded discussions upon the subject, yet it seems manifest that the object was to prevent a majority of the States from oppressing some one or more of the other States by imposing heavier duties upon articles imported into them than upon those imported elsewhere. It could not have been thought necessary that the majority of the States should be deprived of the power to injure themselves by imposing in a particular State a lower rate of duty than that imposed in all the others. It must have been presumed that the States and their representatives would act for the protection of their own interests, and that combinations which might be formed would be formed against the few, rather than by the few against the many.

We come, then, to consider what is the true import of the phrase "all duties, imposts, and excises shall be uniform throughout the United States." This is a phrase of limitation, and, upon settled principles of interpretation, it ought not to be extended beyond the fair import of the words used. The uniformity here required must evidently be a uniformity in respect to the *objects* upon which duties are to be imposed and the *persons* by whom those duties are to be paid. To say that the phrase has a more extensive meaning than this would make it import that one single rate of duty should be imposed upon every article brought into the country, without exception and without any qualification derived from the obvious political necessities of the times. That no such construction has ever been contended for, and that the universal practice of the Government has been the reverse of it, is sufficient evidence to show that the meaning of the terms must be limited as we have stated.

If, then, this uniformity applies only to the imposition upon the particular subject of the law imposing the duty and the class of persons who may bring it into the country, it would seem to follow inevitably that if all goods imported for a particular purpose bear the same rate of duty or bear none at all, and all citizens are given the right to import them for that purpose, the law is not infringed by the fact that it happens that the particular purpose which is made the test of importations of that character is one which must be exercised in a particular place or by a particular class of people. It was perfectly well known to the framers of the Constitution, as it is to us, that the varieties of climate, occupation, and industry in the country were so great that necessarily particular classes of objects which might be brought from abroad would be used exclusively in particular States or sections of the country, and that other particular classes would be used in other States or sections of the country. It was impossible then to look, so far as the uniformity of imposition was concerned, to the uses to which goods imported should be appropriated; and if the right to import particular things might be exercised by all citizens alike, and in all parts alike, the security designed by the Constitution was accomplished without undertaking to see to it that each State of the Union should consume or buy more or less of the things thus brought in.

If it be the judgment of Congress that the general welfare will be promoted by the free importation of goods to be used for a particular

purpose, in a particular place, not *because* it is a particular place or in a particular State, but because the object to which they are to be devoted happens by accident to be one to be effectuated in some one State or place, there can be said to be no preference to that State or place as such, although the same goods and for the same purpose could not be used on that occasion in any other State or place. Its real spirit and essence in such a case is not to interfere with uniformity or to create a preference between States or ports, but it is to accomplish the general welfare by aiding a particular object or a special enterprise which must of necessity be located somewhere, and not everywhere, in the country.

While, as we have seen, therefore, such a law does not violate the letter of the Constitution, it is equally clear that it does not violate its spirit, which, as we have seen, was to prevent the oppression of a particular State for the benefit of the others, and not to prevent Congress, when the general welfare required it, from allowing all the citizens of the country to bring in goods in aid of some special object which happened to be attainable only by their use in a particular case.

It was seen evidently by the framers of the Constitution that this first clause of section 8 would not prevent Congress from indirectly giving the preference to a particular port even; and in order to exclude such an exercise of the power conferred by this clause, it was provided, in the next section, that "no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another." Were the construction of the first clause of section 8 by those who believed such bills to be unconstitutional the correct one, there would have been no necessity for the qualifying provision found in section 9.

The same word, "uniform," is used in the same section, as applied to naturalization. And yet Congress in early days exercised without question the power of providing that, in a special instance and for a particular purpose, certain persons should be naturalized *ipso facto*, although at the same time, by the general laws of naturalization, all other aliens were subjected to a probation. Such was the act of March 26, 1804, (2 Stat., 292,) which provided—

That any alien, being a free white person, who was residing within the limits and under the jurisdiction of the United States at any time between the 18th day of June, 1798, and the 14th day of April, 1802, and who has continued to reside within the same, may be admitted to become a citizen of the United States without a compliance with the first condition specified in the first section of the naturalization act.

And the second section of the same act provided—

That when any alien who shall have complied with the first condition specified in the first section of such original act, and who shall have pursued the directions prescribed in the second section of said act, may die before he is actually naturalized, the widow and children of such alien shall be considered as citizens of the United States, and shall be entitled to all rights and privileges as such upon taking the oaths prescribed by law.

The condition referred to was in the act of April 14, 1802, and required a declaration of intention to become a citizen, to be made three years at least before his admission as such.

A provision in the fourth section of the act of 1802, of a similar character, naturalizing by mere act of law certain alien children then in the United States, was carried into effect by the Supreme Court, without any doubt being suggested that by such special provisions for special cases the requirement of uniformity was not obeyed. (Campbell *vs.* Gordon, 6 Cranch, 176.)

In these instances it will be perceived that Congress and the Supreme Court thought that uniformity was retained under the Constitution, if

it existed in respect to the particular subject or thing embraced in the particular enactment, although in general, and as to all other persons and things, another provision existed.

A long series of acts of legislation upon the subject of duties, imposts, and excises, beginning with the early history of the Government, seems to us to involve precisely the same principles, and to give a practical construction to this clause of the Constitution in favor of the validity of such laws. The following are some of the instances of the kind:

In the duties act of 1790, (1 Stat., p. 177, sec. 70,) it was provided that—

No goods, wares, or merchandise of foreign growth or manufacture, subject to the payment of duties, shall be brought into the United States from any foreign port or place in any other manner than by sea, nor in any ship or vessel of less than thirty tons burden, *except within the district of Louisville, &c.*

This instance would seem at first view to go so far even as to evade the prohibition against the preference to ports; but it was probably thought valid, on the ground that no particular port or ports were named, and as the design of the statute was not to accomplish such preferences, but only for particular reasons affecting the general welfare, to provide a special rule for a particular district.

The fishery drawbacks in the act of 1792, and other acts, seem to a certain degree to fall within the same principle.

The act of February 27, 1793, (1 Stat., 324,) provided for the free admission of horses, cattle, sheep, swine, and other useful beasts, imported for breed.

The act of March 7, 1794, (1 Stat., 342,) proceeded specially upon the grounds we have before stated. The preamble recites that—

Whereas the disastrous situation of the town of Cape François, in the island of Hispaniola, compelled sundry vessels belonging to citizens of the French Republic, in the month of June last, to take refuge within the ports of the United States;

And whereas they are liable, by law, to the payment of foreign tonnage, which, considering the necessity of their case, ought equitably to be remitted to them;

And it then proceeds to enact such remission.

It would certainly be a very narrow line of argument to hold that Congress may constitutionally remit a particular duty due upon a vessel which has entered one of its ports, but may not declare in advance that, if a particular vessel does enter, the duty shall be remitted. If such a distinction were sound, it would follow that Congress might constitutionally remit all duties due from all the citizens of a particular State, for the mere reason that they were citizens of that State, which will scarcely be maintained.

The true test evidently is that, consistently with the letter of the Constitution, the validity of the law is to be tested by the real purpose and spirit of its enactment. If that purpose be to promote the general welfare by relieving distress or encouraging a particular enterprise, and not to aid classes of citizens because of their territorial location, the law must be valid.

The act of June 4, 1794, (1 Stat., 372,) provided—

That in all cases where the term allowed by law for the exportation of goods, wares, and merchandise, with the benefit of a drawback of the duties thereupon, shall have expired after the last day of January last past, and previous to the last day of July next, there shall be allowed further time for the exportation with the benefit aforesaid, until the last day of July next.

This provision, and all the others looking to the past instead of the future, would be much more objectionable than a bill such as that now proposed, for the reason that only the particular persons who had already imported goods could be benefited, instead of its giving an equal privi-

lege to all citizens of the United States who might choose to import goods for the special purpose authorized by law.

Another act of June 4, 1794, (1 Stat., 373,) directed the collector of the district of Pennsylvania to take a bond for the payment of duties accruing on teas imported in the ship *Argonaut* from China, payable on a particular day, thus making an exception from the general provisions upon that subject in favor of a particular ship and for a particular time.

The act of 28th January 1795, (1 Stat., 410,) provided that—

The duties on the tonnage of sundry shallops and small schooners, lately employed to convey to Boston a number of French citizens, late inhabitants of Saint Peter and Miquelon, from Halifax and Shelburne in Nova Scotia, where they had been sent prisoners by the British during the present war, be, and the same are hereby, remitted.

Here was a specific instance of the remission of duties upon vessels on account of their particular occupation, although they had entered at one single port which had thereby obtained the advantages to be derived from such entrance. But as the purpose of the act was not to prefer Boston to other ports, or these vessels to other vessels merely, but to show a patriotic appreciation of loyalty under circumstances of distress, its constitutional propriety was not questioned.

By the act of June 1, 1796, (1 Stat., 494,) relief was provided for such owners of stills as should make it appear that within a particular period of time they had not been able to work their stills during that time by the destruction or the failure of fruit or grain, or any other unavoidable cause; and such distillers were given an election to pay, in lieu of the ordinary and general duty upon the yearly capacity of their stills, a monthly duty of ten cents per gallon for the time their stills were actually employed.

By the act of February 19, 1803, (2 Stat., 201,) relief was granted to sufferers by fire at Portsmouth, by extending the time for discharging their custom-house bonds.

By the act of March 19, 1804, (2 Stat., 272,) the sufferers by the fire at Norfolk were permitted to cancel their bonds given for duties to the collector, and to substitute therefor new bonds, with further indulgence as to time of payment.

By the act of March 3, 1817, (3 Stat., 369,) the Secretary of the Treasury was directed to remit to any person to whom a license upon a still had been granted before the 1st July, 1816, for a term extending beyond said day, who should prove to his satisfaction that he had discontinued the use of such still, such proportion of the duties thereon as should be just.

By the act of April 20, 1818, (3 Stat., 465) the Secretary of the Treasury was directed to remit all alien or discriminating duties, either upon tonnage or merchandise imported in respect of British vessels which have been entered in ports of the United States at any time between the 3d day of July and the 18th August, 1815.

By the act of 24th February, 1820, (3 Stat., 543,) remission was made of "the duties which have accrued or may accrue to the United States upon the importation of a statue of George Washington, by order and for the use of the State of North Carolina."

By the act of 19th January, 1824, (4 Stat., 3,) the Secretary of the Treasury was "authorized and required to refund to the distillers of spirituous liquors within the county of Berks, in the State of Pennsylvania, who, at any time since the 1st of January, 1814, have used the stills made according to" a certain improvement. This act, on its passage, was the subject of much discussion as to its propriety, but no question was made

respecting its constitutionality. (See Annals of 18th Cong., vol. 1, p. 910.)

By the act of 26th May, 1824, the same relief was extended to all persons similarly situated. (4 Stat., 44.)

By the act of 19th March, 1836, (5 Stat., 6,) which was entitled "An act for the relief of the sufferers by the fire in the city of New York," an extension of the time of payment upon duty bonds was given "to all persons who have suffered loss of property by the conflagration at that place on the 16th day of December last by the burning of their buildings or merchandise;" with a proviso that the benefits of the section should not be extended to any person whose loss by such fire was less than \$1,000. And by the second section of the same act a similar extension was provided upon all other bonds given for duties at the port of New York prior to the fire, for a shorter period of time, excepting such bonds as had fallen due before the 17th day of December then last past.

By the act of July 7, 1838, it was directed that the duties should be remitted upon all goods, wares, and merchandise destroyed in unbroken and original packages by the great conflagration which took place in the city of New York on the 16th and 17th December, 1835. And by the same act it was further provided that certificates given by the collector and naval officer of that port to persons, showing how much money they had paid upon goods so destroyed, should be received instead of cash in the payment of duties upon goods to be imported. In this instance it will be perceived that, besides the ordinary relief given by remission, in the various cases above referred to, it was provided that while all the other citizens of the United States must pay their duties in coin, the particular sufferers by that fire might pay their duties by these certificates. This provision seems to come much nearer a want of uniformity than any of the others.

By the act of March 3, 1839, "for the relief of umbrella makers," a special remission and refunding of duties was provided to those who had imported umbrella-stretchers within a certain period of time named.

The well-remembered act of July 27, 1866, (14 Stat., 304,) "for the relief of sufferers by fire at Portland," provided that all gratuitous contributions to the sufferers should enter that port duty free, and also, that on all materials actually used in buildings erected on the ground burned over, a drawback of import duties should be paid, provided said material should have been imported at the port of Portland during the year ended July 5, 1867.

By joint resolution of 20th July, 1868, (15 Stat., 260,) vessels of the United States, touching at or near ports in Canada under certain circumstances, were exempt from the payment of tonnage fees to the consuls of the United States, as required by the general laws applying to all other vessels; the reason for the exception being, that those vessels made these ports on their voyages from one port of the United States to another, although the same reason would apply to a vessel sailing from New York to New Orleans, and touching at Havana.

By joint resolution passed July 23, 1868, (15 Stat., 260,) it was provided that—

The statue representing the figure of Victory, intended to surmount the monument in memory of the Pennsylvania soldiers who fell in the Mexican war, now about being erected on the capitol grounds at Harrisburgh, being in marble, cut in Italy, and which will soon be ready for shipment, shall be admitted free of duty.

By joint resolution passed March 3, 1869, (15 Stat., 349,) the Secretary of the Treasury was directed to remit duties on a meridian circle im-

ported for the observatory at Cambridge, Mass., and also upon one imported for the observatory of the Chicago University, at Chicago, Illinois.

The instance of the bill for the relief of the sufferers by the Chicago fire is too familiar to need further reference.

At this present session of Congress an act has been passed providing that a certain distiller in Tennessee might carry on his business upon property of which he was not the owner, although all other distillers are required by general law to be the owners, in fee, of such property.

And a bill has also passed allowing the admission free of duty of certain articles to be used in the construction of a monument at Annapolis.

Other instances of a similar character to those above recited can no doubt be found, but enough have been named to show the uniform course of legislation bearing in a greater or less degree upon the true construction of the provision of the Constitution now brought into question. It appears to us that these acts of legislation, or most of them, can only be upheld upon the principle we have stated in the outset, and that they furnish a clear legislative exposition of the true scope and purpose of this constitutional requirement as understood from the foundation of the Government to this time, the essential idea being that the test of uniformity is answered by the application of the rule to the particular thing upon which the duty or impost is laid in the given case named in the law, without looking to the fact that its ultimate use or destination may happen to be one which indirectly or incidentally works a benefit to a particular town or a particular State.

So long as the manifest object of the law is not to confer an advantage or preference upon one State or place because it is such a State or place, but is to promote the general welfare by giving aid to a particular class of citizens who are in distress, and who must of necessity reside in some State and in some place, even if it could be maintained successfully, (which does not seem to us to be true) that the Constitution, read without the light of experience and practice, does not permit such assistance to be rendered to citizens, the long and uniform practical construction which has been given to it in favor of bills of this character ought to be decisive upon this point. It is a familiar principle of interpretation that a contemporaneous construction of the Constitution and long practice and acquiescence therein are usually the conclusive guides to its meaning. (*Stuart vs. Laird*, 1 Cranch, 299.)

In the report of the majority of the committee all distinction between the remission of duties in consequence of the character of the use of the thing imported, which in this case, and remissions in consequence of the place of such or any use, seems to be ignored, and the bill is treated entirely as if it were a bill declaring that "all goods used in Boston" should have a drawback. An argument directed against such a proposition has, we think, no application to the present case.

The majority of the committee appear also to be of opinion that the Constitution requires uniformity of effect throughout the United States in the imposition of duties, &c. The Constitution does not so declare. It declares that "all duties, imposts, and excises," not the effect or object of them, but the duties, &c., themselves, "shall be uniform," &c.

The test of uniformity, therefore, must in the legal aspect of the matter be applied to the act of importation and to the terms imposed upon that. The destined use of the goods is merely a descriptive means of identifying the class of things to which a special rate of duty or an entire remission of it is applied in the law.

In respect to the opinion of the majority of the committee that the

precedents referred to are of little weight, for the reason that usually the constitutional question was not raised, it is enough to say that in all these instances the bills were special, and the question manifest upon the face and in the very nature of the subjects; so that the absence of discussion or dispute makes a stronger practical construction of the Constitution in favor of the power of Congress to pass such bills. It is true, as is claimed, that no number of violations of the Constitution can justify another; but it is also true that, in seeking for the true interpretation of that instrument, a particular signification, long imputed to it and acted upon without question for a great length of time, is of the utmost importance, not to justify its violation, but in order to know its true meaning. Such is the imperfection of language and such is the variety of mental constitution among men that any other rule would make the Constitution the most uncertain and changeable of laws; it would be held in one year and by one Congress to authorize acts which in the next year and by the next Congress it would be held to forbid.

As we have already suggested, the rule of uniformity may be answered by a law that infringes the clause of the Constitution forbidding preferences being given by any regulation of revenue to the ports of one State over those of another. In the bill before us we think that the provision in it requiring the importation in question to be made into the ports of Boston and Charlestown only, does infringe the clause last referred to, and that the same ought to be stricken out.

GEORGE F. EDMUNDS.

GEORGE G. WRIGHT.

IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1873.—Ordered to be printed.

Mr. MACHEN submitted the following

REPORT:

[To accompany bill S. 1402.]

The Committee on Claims, to whom this case was referred, report that it appears, from the proofs in the case, that on the 15th of September, 1861, the fair-grounds of the Agricultural and Mechanical Association of Lexington, Kentucky, were taken possession of by the United States troops, then under Colonel Grigsby, and his troops encamped thereon; that said fair-grounds were handsomely and expensively improved, having a large and fine amphitheater and all the out-buildings usual and needful for such purposes, and large lawns with shade-trees and seats; all erected and maintained by said association and for the advantage of agriculture and mechanics; that while used by said troops, and in December, 1861, the buildings and improvements were nearly all destroyed by fire, the shade-trees destroyed by various means, and a general destruction taking place of fencing around the premises. Possession was continued of the premises after the fire, and until the month of January, 1866.

On the 22d of February, 1864, General Schofield, in command of the Department of Ohio, which embraced that part of Kentucky, ordered a board of loyal citizens of Kentucky to estimate the damages done to the fair-grounds by reason of the occupancy of the United States troops as a camping-ground since September, 1861. Said commission duly appointed made the investigation, and reported to Captain P. W. Anderson, assistant adjutant-general, on the 29th of February, in which they estimate the cost of repairing the property injured and making it as good as it was before occupied by the troops, at the sum of \$34,025, but state that, taking into consideration the greater value of the new buildings over those destroyed, \$25,000 would cover the damages. The report was referred by Major-General Schofield to Captain E. Gray, acting assistant inspector-general for the Department of Ohio, for examination, and on the 2d March, 1864, he indorsed thereon, "Examined, and the within account considered proper and reasonable, and respectfully recommended to be paid."

On the 23d day of August, 1866, the claim was presented to the Quartermaster-General for settlement, and he referred the papers to Captain Restimaux, assistant quartermaster, at Louisville, Kentucky, for a special report, who, after having made a personal examination of the premises, made a report to the Quartermaster-General, recommending the payment of about \$29,900. The Quartermaster-General then

2 AGRICULTURAL AND MECHANICAL ASSOCIATION OF LEXINGTON.

referred the claim to the special war-claims commission, of which Major-General E. R. S. Canby was president, and on the 1st May, 1867, that commission published notice that the claim "was allowed," but their report not having been written out and signed prior to the transfer of General Canby to the command of the second military district, the claim was not paid.

In the summer of 1868 the claim was again submitted to the board of claims, General James A. Hardie then being president of the board, and upon the recommendation of the board the papers were referred to Inspector-General D. B. Sackett, who also made a personal inspection of the premises, and, after taking some additional testimony, submitted his report on the 30th September, 1868, in which he recommends substantially the same as recommended by the board appointed by General Schofield, and says "that the estimates are fair and reasonable, and not a dollar too high."

The board of claims concurred in these recommendations, except as to the feasibility of making payment out of the regular appropriations, and in their opinion there was no appropriation applicable to the payment, and they recommend the claim to the special and favorable consideration of Congress, which was approved by the Secretary of War on the 20th November, 1868.

The committee omitted in its proper place to state that on the 24th March, 1865, a board of survey was ordered by Colonel S. W. Price, then in command of the post at Lexington, and on the 27th March the commission met, and after examining the fair grounds report the accruing damages after the former surveys had been made to be the sum of "\$3,000."

There is an additional claim for rent, from 15th September, 1861, until the 1st January, 1866, at the rate of 10 per cent. per annum on the assessed value of the property, as made at the time it was taken possession of by the troops of the United States, which claim amounts to the sum of \$11,158.33, to be credited by \$3,312.08, as allowed by the Quartermaster-General upon that item; but the committee are of opinion that nothing more should be allowed on that claim.

The committee believe the claim for \$25,000, as found to be owing on the first assessment by order of General Schofield, constituted a just and equitable debt, that ought to be paid, and therefore recommend the passage of the accompanying bill, for the sum of \$25,000.

IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1873.—Ordered to be printed.

Mr. HOWE, from the Committee on Claims, submitted the following

R E P O R T :

The Committee on Claims, to whom was referred the petition of Thaddeus C. Hubbell, for relief, &c., have considered the same, and beg leave to bring in the following as their report:

The petitioner represents that in June, 1866, he was deputy post-master at Orangeburgh, in the State of South Carolina; that on the 26th day of that June the post-office funds, consisting of \$350 in stamps and "about \$450 in cash," were stolen from his possession, and he asks to be relieved from all liability on account of such funds.

Waiving for the present all consideration of the question whether in any case receivers of public moneys should be relieved from liability when such funds are stolen, it is submitted that no such relief should be granted unless the proof of the larceny, the amount of the loss, and the exercise of due care by the officer be clear and unequivocal.

In this case the proof is not satisfactory upon either point. The petitioner represents that the funds were placed in a box, which was *tied up*, the box placed in a drawer in his bed-room, which was locked, and the key in his own pocket. He also represents that there were no iron safes in town, and "the post-office building was by no means secure against robbery."

If the situation was precisely as described, it is not easy to say that the drawer in the bed-room was not as safe a place for the deposit of the cash-box as any other.

But it does seem manifest that money would be safer in a cash-box *locked up* than in one *tied up*. It is represented that the thief entered the bed-room by a window, and, at the time, that robberies were of almost nightly occurrence. And yet it is not shown that at such a time the window was fastened, or even closed. The money is said to have been taken "in the night-time," and yet no one of the family was in the bed-room.

The reason assigned is that the family was in another part of the house, with a sick "grandchild." The parents of the child appear to have lived also in the house.

If parents and grand-parents sat up with the child, while no one staid with the cash, it would seem that the watch over the child was too much disproportioned to that over the money.

But the extent of the loss is still more unsatisfactorily proved. No one pretends to know the amount taken but the claimant, and he is not agreed as to the amount. He has made at different times three statements of the amount of the public funds in the box at the time of the

alleged larceny. No two of them agree with each other, and no one of them agrees with any rational probability.

On the 28th of June, 1866, he stated the sum at \$365 in stamps and \$450 in cash.

On the 26th of February, 1868, he stated them at \$350 in stamps and \$450 in cash.

In his petition, sworn to on the 14th of March, 1870, he puts the stamps at \$350 and the cash at *about* \$450.

But if the claimant's story is rendered suspicious when he contradicts himself, it is made absolutely incredible when he does not. He undertakes to state an account exhibiting the amount of moneys derived from the sales of 2-cent, 3-cent, 10-cent, and 24-cent stamps, and the amount of such stamps unsold. And yet, in each of his three statements, we are asked to believe that the stamps sold yielded an even number of dollars and the stamps unsold aggregated an even number of dollars.

And worse than that. In his first statement, sworn to on the day after the alleged larceny, he exhibits an account, presenting the amount of cash received and the amount of stamps unsold of each denomination. In that statement we are asked to believe, not only that the stamps sold yielded an even number of dollars, and that the stamps unsold footed up an even number, but that there was an even number of dollars of each denomination of stamps unsold, to wit:

3-cent stamps	\$300
2-cent stamps	15
24-cent stamps	30
10-cent stamps	20
Total	365

But the whole case suggests a painful doubt as to there having been any larceny committed at all. If there was one it was a most extraordinary one.

According to the narration of the claimant, the thief or thieves, in the night-time, placed a bench under a window of his bed-room, from which they entered the room, *wrenched* open a locked drawer, abstracted the cash-box, opened another drawer and abstracted his wife's jewelry, which they did not bear off but scattered on the floor; then went out through the window, stopped in the yard to open and rifle the cash-box, left three 24-cent stamps in it, and dropped it in the yard, and did it all while the petitioner and his family were in the hushed room of a sick child, adjoining the bed-room. This story, very difficult to believe, is rendered the more suspicious inasmuch as two of the witnesses contradict each other upon an important point on which there does not seem to be any excuse for disagreement.

The claimant swore that they first discovered the robbery by the jewelry which the robbers dropped on the floor. At what time that was he does not say. But his son testified that he first discovered the robbery about 3 o'clock the morning after, when returning home he found the rifled cash-box near the gate of his father's yard.

It is but just to add that very many of the claimant's neighbors avow their belief in the fact of the robbery, and join him in his prayer for relief.

Your committee are unwilling that a claim which is so wholly unsupported by the facts in the case should be paid by the Government, and therefore recommend that the petition be indefinitely postponed.

IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill S. 1403.]

The Committee on Claims, to whom was referred the memorial of Dr. A. B. Sellars, submit the following report :

The claimant in this case alleges that he had fifteen bales of cotton, averaging four hundred pounds to the bale, and of the value of \$3,200, taken by Captain Berry, of the Eighth Regiment Tennessee Volunteers, about the 30th of June, 1865, at Company's Shops, Alamance County, North Carolina, and that the cotton was turned over by the officer to Colonel Heaton, supervising special agent of the treasury, at Raleigh, North Carolina. Dr. Sellars says that the place of deposit of his cotton was in the midst of a thick and dense growth of shrubbery, near the railroad and within half a mile of Company's Shops and on the premises of Dr. J. A. Moore, and that it remained there safe until it was discovered by Captain Berry ; his object in secreting it there being to save it from being destroyed by the confederate army. He avers his loyalty, and his memorial is sworn to.

Dr. Sellars's loyalty is proved by G. L. Sellars, Dr. J. A. Moore, and W. W. Holden, late governor of that State.

The taking of the cotton, under the circumstances stated in the memorial, is proved by G. L. Sellars above, who was present at the time and had personal knowledge of the facts, and informed Captain Berry that the cotton belonged to the claimant, and immediately notified the latter, who lived in Randolph County, of the seizure, and that he should come and look after his cotton, which he did, to no effect, as Captain Berry said he had orders to take all the cotton he could find.

Dr. Moore swears that the claimant, anxious to protect his cotton from destruction by the confederates in their retreat through the country, sought him, as a known sympathizer with the South, to allow his cotton to be stored on the witnesses's premises, in the belief that by this means it would be secure from destruction, and that the cotton did remain unmolested until the last of June, 1865.

No one speaks of marks and brands on the cotton.

There was such a supervising agent in Raleigh. The Secretary of the Treasury says, however, that Mr. Heaton's records do not show the receipt of any cotton from Captain Berry. But he adds the cotton may

have been included in a large quantity received by Mr. Heaton in New Berne about that time from military officers.

If the first witness mentioned is to be believed, then the cotton was taken at the time and place stated by Captain Berry. If the last witness is to be believed, the cotton was turned over by the officer to the supervising agent, for Moore swears that he afterward saw Colonel Heaton at Raleigh and had a conversation with him about the transaction, and informed him of the claimant's loyalty, and urged upon him that Dr. Sellars should be paid for his property, to which Heaton replied by promising to attend to it, which, the witness adds, he never did.

The first witness swears that Heaton acknowledged the receipt of the cotton.

All this looks fair enough on its face, but then there is a lack of the testimony of Captain Berry and Colonel Heaton, the two parties through whose hands it is alleged the cotton passed when it left its place of refuge. Nor is any excuse given why this testimony is not produced. Nor is there any account of the marks and brands on the cotton by which its identity could be traced; and the account the claimant gives why he did not seek the Court of Claims for redress, before the night set in—before the statute had swung to the doors which now bar his entrance—is far from satisfactory. Let it be borne in mind he comes before Congress in May, 1872, and in making his bow, says he has a claim against the United States, which has not heretofore been presented or acted upon by any officer or department of the Government. But he proceeds to say that he intrusted this claim to an agent in August, 1866, so that it might have been presented to the Court of Claims within the period of limitation, but his agent neglected it without any default of the claimant. And this is the only excuse offered for his not having asserted his claim against the United States in the Court of Claims. That claim, by Dr. Sellars's account, is for more than \$3,000. It would argue a most philosophic temper of mind, a disposition to take things easy, or that happy pecuniary exaltation which makes one careless about such trifles as \$3,000, that Dr. Sellars should have allowed five years to elapse without looking after this agent, who seems to have been patterned after his principal or to have imitated his indifference. Who was this tardy, slow-going agent who slept while time was reeling up these five years of limitation and probation? It would be a merit to advertise his diligence in this report if the claimant had remembered his name, or at least have afforded the committee an opportunity of ascertaining whether the agent confessed the impeachment of his principal. But we do not know and there is no way of finding out.

These two witnesses may be the best men in the world, though one of them belonged to the other side in the war and was taken by the claimant into his confidence for that reason. It was probably an amiable weakness that though a secessionist he preferred being a traitor to a bad cause than betray the secret of his loyal friend, whose loyalty it is refreshing to hear sounded by his lips. See how emphatic he is, though a rebel. He says he "knows that, according to the strictest tests of loyalty, the said Dr. Sellars remained true and loyal to the cause and the Government of the United States throughout the whole of the late unhappy struggle." We suppose he might know that, although his sympathies were on the other side; but it would have been more satisfactory to the committee had he stated facts—acts and words—and left us to draw the inference.

The other witness, too, who speaks in a similar strain, does not tell us what was his status during the "unhappy struggle," nor whether he bore as close relationship to the claimant by blood as he does by name.

Here then, to sum up, is a claim of \$3,200, made up by the ex-parte testimony of two witnesses, of whose standing and character for veracity we can know nothing. It may be and probably is a just claim, but we think the facts of the loyalty of the claimant, the seizure and conversion of his cotton, and the benefit derived therefrom by the United States, should be ascertained by a tribunal better furnished with means to get at the truth than we are, and therefore recommend the transfer of the case to the Court of Claims, and report the accompanying bill and recommend its passage.

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IN THE SENATE OF THE UNITED STATES.

JANUARY 20, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

R E P O R T:

[To accompany bill H. R. 2572.]

The Committee on Pensions, to whom was referred the bill (H. R. 2572) granting a pension to Herman J. Ehle, submit the following report:

It is satisfactorily proved that Herman J. Ehle was first lieutenant in a company of riflemen belonging to the One hundred and thirty-eighth Regiment and Eleventh Brigade of the New York State Militia, in the war of 1812, and that he participated in the expedition to Sackett's Harbor, in September, 1814; that by reason of exposure, bad weather, and insufficient tents, he was attacked by dysentery, and affected with the piles while there, and disabled to such an extent that he was allowed to return home. He was subsequently afflicted with rheumatism.

The dysentery and piles have re-appeared, since then, nearly every year. He was a well and robust man when he entered the service, and has never been a sound man since. Two surgeons and several unprofessional witnesses, differing in details of their knowledge, establish these facts with reasonable certainty. Some of the witnesses participated with him in the campaign. The witnesses are certified to be of highly respectable character.

Lieutenant Ehle did not make an application for a pension until thirty-nine years had elapsed since the passage of the pension act of 1816. He swears he knew nothing of the existence of the law until 1855. At the same time he confesses to having early availed himself of the law of 1850, allowing bounty in lands to the soldiers of that war. Nothing short of the oath of the applicant could induce the committee to give credit to such a statement, since he is a man of intelligence, and for many years was a merchant at Canajoharie.

Failing to obtain a pension at the Pension-Office, he applied to Congress for relief as early as 1859, and, with varying success, has been before it since that time. Two committees have reported in his favor. The papers in his case are numerous, and it would be without profit to set forth the evidence in detail; for it is undeniable that he was a soldier, and manifested a good intent to serve the country in the tedious march to Sackett's Harbor. It is true that, stricken down by sickness soon after he reached there, he was incapable of rendering any efficient service; still, his will was good, and it was without any fault of his that his long march was profitless.

In the mean time the act of 1871 has passed, allowing pensions to the surviving soldiers of the war of 1812. But Mr. Ehle's case is not within the statute, else he would not be here. He was not in the service sixty days. He cannot be allowed a pension for a less time without establish-

ing a precedent to be followed in all like cases, and virtually changing the law. He cannot, in the opinion of the committee, be allowed a pension on account of disability incurred while in the service—two or three weeks at most—in face of the fact that he never moved in the matter for forty years, and that he is now seventy-five years of age, and has led an active business life. The committee are of opinion that Mr. Ehle must have possessed a constitution not seriously impaired or undermined in youth to have survived the wear and tear of more than three score years and ten. How many of the half-million men that were engaged in the last war with Great Britain, and who received neither wound nor disability in the service, remain among the living to-day? Probably not one in fifty; and yet, despite piles, dysentery, and rheumatism, and the whole vile brood of disorders which lie in ambush and attack human life, his rugged constitution has withstood the assaults of the common enemy of man.

The committee are, therefore, of opinion this bill should not pass, and so recommend.

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1873.—Ordered to be printed.

Mr. MORRILL of Vermont, from the Committee on Finance, submitted the following

R E P O R T :

[To accompany bill S. 1417.]

The memorial of the Philadelphia Board of Trade, through their committee, Thomas C. Hand and others, referred to the Committee of Finance, represents "that the sudden imposition of discriminating or differential duties on the 30th day of October last, on merchandise imported into this country in French ships from ports other than those of France, was, as is well known, a retaliatory measure and intended only to prevent the employment of such ships in that business. But as some French ships were at the said date in actual employment by American citizens in the importation of merchandise from such ports, the loss in such case falls, not on the owners of the ships, who will be paid freight-money in full, as per bills of lading, on the delivery of cargo, but on the owner of the cargo who employed the ship for transportation at a time when he had, and could have had, no knowledge of the imposition of these differential duties; and who, after he has paid them, must sell his goods at the price of similar goods imported in ships of other nations, which have not been subjected to such duties."

After this statement of the facts in the case, which appears to be entirely accurate, the memorialists ask to have the amount of differential duties so paid, or which may hereafter be so paid, refunded.

The propriety of the law of June 30, 1864, imposing these duties is not questioned. That law levies a discriminating duty of 10 per cent. *ad valorem*, in addition to the duties imposed by law, on merchandise imported in ships or vessels not of the United States, with a proviso that it shall not apply to merchandise in ships or vessels not of the United States, entitled, by treaty or any act of Congress, to be entered in the ports of the United States on payment of the same duties as are paid on merchandise imported in ships or vessels of the United States.

When the government of France changed her laws so as to exclude the ships and vessels of the United States, as well as those of other nations, from equal privileges with their own, the contingency at once arose for the law which stands in our statutes ready for instant service, and the President of the United States accordingly, on the 30th day of October, 1872, issued his proclamation by which it has since been enforced.

The hardship or practical injustice in the policy indicated has arisen solely from its sudden enforcement. No notice could be given by executive authority, as the moment the action of the French government became known, the slumbering provision in our statutes was roused and became operative.

But it is certainly true that in all the changes made in our laws im-

posing duties upon the importation of foreign merchandise, it has always been our policy to allow some time to elapse, whenever changes were contemplated, previous to their going into effect, whether increasing or diminishing the rates, in order that all parties interested might be able to regulate their business accordingly, and the request of the memorialists appears to your committee as reasonable and proper. We have constantly and repeatedly made provisions equivalent to those now asked for in relation to goods actually on shipboard, and also in relation to goods in warehouses. It would be a gross hardship for us to so administer our laws, only intended to be retaliatory upon foreign nations whose laws deny to us equal privileges, as to punish our own citizens. Shippers of goods could have had no knowledge in advance of the change made in the policy of the French government, nor of the purpose of our own Government to issue the proclamation to which reference has been made. Therefore your committee report a bill, in accordance with the views of the Secretary of the Treasury, for the relief of the parties interested.

IN THE SENATE OF THE UNITED STATES.

JANUARY 22, 1873.—Ordered to be printed.

Mr. AMES submitted the following

REPORT:

[To accompany bill S. 1427.]

The Committee on Finance, being instructed by the following Senate resolution, to wit:

Resolved, That the Committee on Finance be instructed to inquire whether the valuation of the sovereign or pound sterling of Great Britain, at the custom-houses of the United States and in the settlement of accounts between the two countries, under existing laws, corresponds with its true or intrinsic value, as expressed in the money of account of the United States, and report by bill or otherwise,

have had the same under consideration, and submit the following report thereon:

Gold was first made the standard measure of value in Great Britain in the year eighteen hundred and sixteen, by a provision of law as follows:

That gold coins shall be, in future, the sole standard measure of value, and legal tender of payment, without limitation of amount, and that silver coins shall be legal tender for the limited amount of forty shillings only, at any one time.

At the same time a new coinage of twenty-shilling pieces, called sovereigns, was directed in the following words:

There shall be nine hundred and thirty-four sovereigns and one ten-shilling piece contained in twenty pounds weight troy of standard gold, of the fineness, at the trial of the same, of twenty-two carats fine gold, and two carats of alloy in the pound weight troy.

These provisions have been re-enacted by the English coinage act of April 4, 1870.

The sovereign of Great Britain now in use was first minted in the year eighteen hundred and seventeen, under the act to which reference has been made.

Since nine hundred and thirty-four sovereigns and one ten-shilling piece ($934\frac{1}{2}$ sovereigns) are contained in twenty pounds weight troy standard gold, there must be forty-six and twenty-nine-fortieths ($46\frac{29}{40}$) sovereigns (or £46 14s. 6d.) in one pound weight troy of standard gold. One ounce weight troy will contain one-twelfth as many sovereigns, or £3 17s. 10½d., or $934\frac{1}{2}$ pence.

Since one sovereign contains two hundred and forty (240) pence, the weight of a sovereign will be $\frac{240}{934\frac{1}{2}}$ of an ounce weight troy, or of its equivalent, or 480 grains troy, which is $123.2744+$ grains weight troy. That is, one sovereign of standard gold weighs that number of grains,

2 VALUATION OF BRITISH SOVEREIGN AT U. S. CUSTOM-HOUSES.

but one-twelfth is alloy; therefore the pure gold in a sovereign weighs 113.0016+ grains troy.

The standard gold dollar of the United States weighs 25.8 grains troy, whereof one-tenth is alloy. Therefore the pure gold in the standard dollar weighs 23.22 grains troy.

As 23.22 grains troy is the weight of the pure gold in the standard dollar, and 113.0016+ grains troy the weight of the pure gold in the standard sovereign, the quotient resulting from dividing the second number by the first is the value of the pure gold in the standard sovereign, as expressed in dollars and cents, which gives us \$4.86656+. This is the true or intrinsic value of the sovereign or pound sterling as expressed in the standard dollar of the United States at the present time.

By an act of Congress approved July 27, 1842, it is provided that "in all payments by or to the Treasury, whether made here or in foreign countries, when it becomes necessary to compute the value of the pound sterling, it shall be deemed equal to \$4.84; and that the same rule shall be applied in appraising merchandise imported when the value is by the invoice in pounds sterling."

Under this act the invariable practice of the accounting officers of the United States Treasury Department has been to adjust accounts when made out in the moneys of the United States on the basis of \$4.84 to the sovereign or pound sterling; and the same standard has been employed in appraising merchandise imported when the value is by the invoice in pounds sterling.

In this valuation (\$4.84) of the pound sterling, the standard aimed at was its average value as then in circulation in the United States. Coin in use soon falls below the standard value by wear and abrasion.

This we shall call the congressional valuation.

There is still another valuation for the sovereign or pound sterling; this is its commercial valuation or its *technical par* or par of exchange between Great Britain and the United States, as it is called, of \$4.44 $\frac{1}{2}$. This is the valuation of the sovereign given in 1799 by the Congress of the United States.

Here we find the valuation differs widely from the true or intrinsic value as well as the congressional value, to explain which it will be necessary to glance at the history of the coinage laws of Great Britain and this country.

In the year sixteen hundred and one the British standard of silver coin was established, by which 444 grains of troy pure silver were rated at 5s. 2d., or 62 pence.

In the year seventeen hundred and seven, in the reign of Queen Anne, under an act for ascertaining the rates of foreign coins in Her Majesty's plantations in America, the Spanish dollar, or more strictly speaking "Mexico pieces" and "pillar-pieces," was rated at 4s. 6d., or 54 pence, that being the value, according to the standard of 1601, of 386 $\frac{7}{8}$ grains troy of pure silver contained in that coin.

Now, this Spanish dollar containing 386 $\frac{7}{8}$ grains troy of pure silver as tested more than a century and a half ago, long before the gold dollar of the United States was dreamed of, even long before the United States themselves were thought of, when the moneys of Her Majesty's plantations in America were those of the mother country, when the test was made under an act to ascertain the rates of *foreign* coins in said plantations, this dollar is the dollar which we have inherited as the commercial dollar and which burdens us with a technical par. But this

foreign dollar, this Spanish dollar of 1707, has undergone changes of value as the decades passed by.

In the year seventeen hundred and seventy-two the pure silver in the Spanish dollar was reduced to $377\frac{1}{4}$ grains troy, a diminution of $9\frac{5}{8}$ grains pure silver.

In the year seventeen hundred and eighty-five the Congress of the Confederation adopted the *dollar* as the monetary unit, and in the following year it was decided that it should contain $375\frac{64}{100}$ grains troy of pure silver. This is still less than the Spanish dollar of 1772, and in fact was based on the average value of the Spanish dollars then in circulation, which were, as all coin much used must be, slightly below the standard value even when the coinage is honestly conducted.

In the year seventeen hundred and ninety-two Congress adopted a money of account with the dollar as the unit to be represented by a coin containing $371\frac{1}{4}$ grains troy pure silver, which is the present quantity of pure silver in our dollar.

Thus we see the quantity of pure silver in both the Spanish dollar and that of the United States has been constantly diminishing, without, however, holding, or pretending to hold, any fixed proportion with the value of silver bullion or with any changes made in the coins of Great Britain.

And if anything further was needed to make this valuation of the dollar a thing of the past, a pure fiction so far as British money is concerned, we had it when, in 1816, Great Britain, by act of Parliament, changed its standard from silver to gold.

The simple statement of the facts shows that in treating of the commercial dollar with its valuation of 54 pence, and of the sovereign with its value of $\$4.44\frac{4}{9}$ derived therefrom, we are dealing not with realities, but only with the names of things which have long since ceased to exist.

It is not strange, therefore, that those who are not dealers in money should be puzzled by our system of exchange with Great Britain, and that they are filled with forebodings of financial disaster when viewing the quotations of our bonds abroad, and when being daily informed that the rate of exchange is always against us.

But how is this *par of exchange*, $\$4.44\frac{4}{9}$, of course invariable, and which controls the *exchange* which is always against us, ascertained? It is as follows:

The real dollar of 1707, and the fictitious dollar of to-day, being one and the same in value, are rated at 4s. 6d., or 54 pence. A sovereign contains 240 pence, or four and four-ninths ($4.44\frac{4}{9}$) of these fictitious dollars of 54 pence each. But this *par of exchange*, or technical *par*, whether expressed in the terms of the money of account of the United States, ($\$4.44\frac{4}{9}$), or in those of Great Britain, (54 pence,) differs from the true *par* in just so much as the value of this fictitious dollar differs from the true or intrinsic value of the dollar of our present money of account. The true or intrinsic value of the gold dollar of the United States is $49\frac{5}{16}$ pence very nearly, which we ascertain as follows: The sovereign contains, as has already been shown, $113.0016+$ grains weight troy of pure gold, and our gold dollar 23.22 grains weight troy pure gold; and, as there are 240 pence in the sovereign, there must be in the dolla

$\frac{23.22}{113.0016+}$ thereof, or $49\frac{5}{16}$ pence.

Now, the difference between this real dollar ($49\frac{5}{16}$ pence) and the fictitious dollar (54 pence) is $9\frac{1}{2}$ per cent., very nearly, of the real dollar. Nine and one-half per cent. of $49\frac{5}{16}$ added thereto makes 54 to within a

small fraction. It may be asked whence this $9\frac{1}{2}$ per cent.? This, too, is a fiction. We have the fictitious dollar, called the *par of exchange*, and in comparing it to the real dollar the fiction of the *difference in the exchange* comes in in the form of this percentage. Did our real dollar possess any other value, the difference in the exchange would be different; but as it is, $49\frac{5}{16}$ and 54 result in this difference of $9\frac{1}{2}$ per cent. of the first. A second fiction is thus resorted to to correct the evils of the first.

As the *par of exchange*, being the dollar, expressed in the terms of the money of account of Great Britain, is 54 pence, the *par* expressed in the terms of the money of account of the United States will be ascertained by dividing 240 pence by 54, which gives us $4.44\frac{4}{9}$, the number of such dollars in the sovereign. The sovereign contains of real dollars $4.8665+$. Although $9\frac{1}{2}$ per cent. of the real dollar was added thereto to give us the fictitious or *par* dollar, we now find that this percentage will have to be taken of the fictitious sovereign and added thereto to give us the real sovereign, which is what should be expected, inasmuch as the same number, 240, was the dividend in both cases.

Consequently we should expect to find, as we do find, that the *technical par*, $\$4.44\frac{4}{9}$, increased by $9\frac{1}{2}$ per cent., of itself will give us the real *par*, or the valuation of the sovereign as expressed in our money, $\$4.8665$, to within a small fraction.

We see that the fictitious sovereign is less than the real one by .422+ cents; and, as a matter of course, when the exchange between the two countries is at a true *par*, a certain percentage must be added to the false standard, short in its measure, to make it reach the true standard; and so long as such a false standard is used, so long will the exchange be quoted against us, even though the true exchange be in our favor.

This *par of exchange* exists between no other two nations. It is entirely arbitrary; it is unnecessary; it is annoying; it is absurd.

For the better understanding of this point we will examine the values given one of our bonds for a thousand dollars ($\$1,000$) in the London market.

As the true value of the sovereign is $\$4.86656+$, there must be in the one thousand dollar ($\$1,000$) bond 205.484 such sovereigns, or £205 9s. 8½d. But if we assume the value of the sovereign to be $\$4.44\frac{4}{9}$, the *par of exchange*, there will be of such sovereigns in the $\$1,000$ bond 225—£255, by which it is seen that the $\$1,000$ bond is given a valuation which is some £19½ more than its true or intrinsic value, and of course it cannot be quoted at *par* unless its premium is sufficient to equal or exceed the fictitious increase of value thus given it.

The $\$1,000$ bond will be at a true *par* whenever it is worth £205.484+, but it is quoted below *par* because it is not worth £225. Thus it is seen that our bonds are quoted below *par* when, in point of fact, they are at or above *par*.

Frequently State and corporation bonds sent abroad are expressed in pounds, shillings, and pence, or in the dollar at its true value, or nearly so; and such bonds are quoted above the United States bonds, though the latter are quoted higher at home, and are in reality more valuable.

An examination of the disposition of our securities abroad will show that the *inconvenience* of this system of exchange is the least of evils attending it.

By what has been stated it will be seen that the true or intrinsic value of the sovereign of Great Britain, as expressed in the money of account of the United States, is $\$4.86656$; that the congressional valuation is $\$4.84$; and that the commercial valuation, known as the *par of exchange* or *technical par*, is $\$4.44\frac{4}{9}$.

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The first is the value of the pure gold in the sovereign, as expressed in dollars and cents; and, as a measure for the comparison of the moneys of the two countries is sought, that which will give the true value of the pure gold in their standard coins would seem to fill the requisite conditions.

The second is the valuation given by Congress, it being the average value of those actually tested in 1842. It is to be observed that it was the average worn or abraded British coin with which our standard coin was compared. Would it not be wiser to compare our standard coin with the British standard coin; if the British worn or abraded coin is taken as a standard, ought not our own worn and abraded coin to be compared with it?

The inconvenience, not to say the evils, of the fictitious sovereign, based on the Spanish dollar of the seventeenth century, and known as the *par of exchange*, is recognized by all and cannot be too quickly remedied.

It is the opinion of the committee that such a valuation should not be recognized by any of the Departments of the Government; and that they should use every means in their power, abroad as well as at home, to attain a system of exchange based on true or intrinsic values.

S. Rep. 317—2

IN THE SENATE OF THE UNITED STATES.

JANUARY 22, 1873.—Ordered to be printed.

Mr. HARLAN, from the Committee on Indian Affairs, submitted the following

REPORT:

The Committee on Indian Affairs, having had under consideration the letter of the Secretary of the Treasury of January 6, 1873, in relation to the payment of \$250,000, in bonds of the United States, to the Choctaw Indians, respectfully submit the following report:

That the treaty of June 22, 1855, between the United States and the said Indian tribe, contains the following provisions, viz:

ARTICLE XI. The Government of the United States not being prepared to assent to the claim set up under the treaty of September 27, 1830, and so earnestly contended for by the Choctaws as a rule of settlement, but justly appreciating the sacrifices, faithful services, and general good conduct of the Choctaw people, and being desirous that their rights and claims against the United States shall receive a just, fair, and liberal consideration, it is therefore stipulated that the following questions be submitted for adjudication to the Senate of the United States:

"First. Whether the Choctaws are entitled to, or shall be allowed, the proceeds of the sale of the land ceded by them to the United States by the treaty of September 27, 1830, deducting therefrom the costs of their survey and sale, and all just and proper expenditures and payments under the provisions of said treaty; and, if so, what price per acre shall be allowed to the Choctaws for the lands remaining unsold, in order that a final settlement with them may be promptly effected; or

"Second. Whether the Choctaws shall be allowed a gross sum in further and full satisfaction of all their claims, national and individual, against the United States; and if so, how much."

ARTICLE XII. "In case the Senate shall award to the Choctaws the net proceeds of the lands ceded as aforesaid, the same shall be received by them in full satisfaction of all their claims against the United States, whether national or individual, arising under any former treaty; and the Choctaws shall thereupon become liable and bound to pay all such individual claims as may be adjudged by the proper authorities of the tribe to be equitable and just; the settlement and payment to be made with the advice and under the direction of the United States agent for the tribe; and so much of the fund awarded by the Senate to the Choctaws as the proper authorities thereof shall ascertain and determine to be necessary for the payment of the just liabilities of the tribe shall, on their requisition, be paid over to them by the United States. But should the Senate allow a gross sum in further and full satisfaction of all their claims, whether national or individual, against the United States, the same shall be accepted by the Choctaws, and they shall thereupon become liable for and bound to pay all the individual claims as aforesaid; it being expressly understood that the adjudication and decision of the Senate shall be final."

That in pursuance of this agreement between the two contracting parties, the Senate proceeded to the adjudication of the questions submitted, and referred the subject to the Committee on Indian Affairs for examination. On the 15th day of February, 1859, the committee submitted an elaborate report, and introduced the following resolutions, viz:

Whereas the eleventh article of the treaty of June 22, 1855, with the Choctaw and Chickasaw Indians, provides that the following questions be submitted for decision to the Senate of the United States:

"First, whether the Choctaws are entitled to or shall be allowed the proceeds of the sale of the lands ceded by them to the United States by the treaty of September 27, 1830, deducting therefrom the costs of their survey and sale, and all just and proper expenditures and payments under the provisions of said treaty, and, if so, what price per acre shall be allowed to the Choctaws for the lands remaining unsold, in order that a final settlement with them may be promptly effected; or

"Second, whether the Choctaws shall be allowed a gross sum, in further and full satisfaction of all their claims, national and individual, against the United States; and, if so, how much."

Resolved, That the Choctaws be allowed the proceeds of the sale of such lands as had been sold by the United States, on the day of _____, deducting therefrom the cost of survey and sale, and all proper expenditures and payments under said treaty, estimating all the reservations allowed and secured, or the scrip issued in lieu of reservations, at the rate of \$1.25 per acre; and, further, that it is the judgment of the Senate that the lands remaining unsold after said period are worth nothing, after deducting expenses of sale.

Resolved, That the Secretary of the Interior cause an account to be stated with the Choctaws, showing what amount is due them according to the above-prescribed principles of settlement, and report the same to Congress.

(Senate committee's report, No. 374, 2d session, 35th Congress.)

That, on the 29th of March following, the Senate considered these resolutions, and, after amendment, they were adopted as follows:

Whereas the eleventh article of the treaty of June 22, 1855, with the Choctaw and Chickasaw Indians, provides that the following questions be submitted for decision to the Senate of the United States.

"1st. Whether the Choctaws are entitled to or shall be allowed the proceeds of the sale of the lands ceded by them to the United States by the treaty of September 27, 1830, deducting therefrom the costs of their survey and sale, and all just and proper expenditures and payments under the provisions of said treaty; and, if so, what price per acre shall be allowed to the Choctaws for the lands remaining unsold, in order that a final settlement with them may be promptly effected. Or, second, whether the Choctaws shall be allowed a gross sum in further and full satisfaction of all their claims, national and individual, against the United States; and, if so, how much."

Resolved, That the Choctaws be allowed the proceeds of the sale of such lands as have been sold by the United States on the 1st day of January last, deducting therefrom the costs of their survey and sale, and all proper expenditures and payments under said treaty, excluding the reservations allowed and secured, and estimating the scrip issued in lieu of reservations at the rate of one dollar and twenty-five cents per acre; and, further, that they be also allowed twelve and a half cents per acre for the residue of said lands.

Resolved, That the Secretary of the Interior cause an account to be stated with the Choctaws, showing what amount is due them according to the above-prescribed principles of settlement, and report the same to Congress.

(Senate Journal, 2d session, 35th Congress, page 493.)

That, in pursuance of this award, the Secretary of the Interior, as directed by the closing resolution, proceeded to state an account between the United States and the Choctaw Indians, upon the principles decided by the Senate in the first resolution, and reported the same to the Senate, May 8, 1860. (Ex. Doc. No. 82, 1st sess., 36th Cong.)

That this authorized and official statement, made in pursuance of the Senate award, shows a balance of \$2,981,247.30 to be due said Indians. But that the Commissioner of Indian Affairs (A. B. Greenwood) suggested, in his report accompanying the Secretary's communication to the Senate, a doubt whether certain moneys paid the Choctaws by the United States, for a lease of that part of their western lands lying west of the 98th meridian, and moneys paid the Choctaws by the Chickasaws, for the use of a part of said lands lying east of said meridian, amounting to \$1,130,000, should not be deducted from the foregoing sum, leaving only \$1,851,247.30 due the Choctaws. It will be found, however, that the Committee on Indian Affairs examined this question, and made an exhaustive report to the Senate, June 19, 1860, in which the committee deny the equity and justice of this deduction. But after going over the account as stated, and making certain corrections, which were deemed

proper, and deducting the \$500,000 paid by the United States for the use of the leased lands, the justice of which they denied, the committee recommended the payment of \$2,332,560.85. (Senate Reports of Com., No. 283, first session Thirty-sixth Congress.)

That in part payment of this award, Congress put the following item into the Indian appropriation bill of March 2, 1861, viz:

For payment to the Choctaw Nation or tribe of Indians, on account of their claim under the eleventh and twelfth articles of the treaty with said nation or tribe, made the twenty-second of June, eighteen hundred and fifty-five, the sum of five hundred thousand dollars; two hundred and fifty thousand dollars of which sum shall be paid in money, and for the residue, the Secretary of the Treasury shall cause to be issued to the proper authorities of the nation or tribe, on their requisition, bonds of the United States, authorized by law at the present session of Congress: *Provided*, That in the future adjustment of the claim of the Choctaws, under the treaty aforesaid, the said sum shall be charged against the said Indians. (Statutes at Large, vol. 12, p. 238.)

That, in pursuance of this act, the \$250,000 in money was paid to the Choctaws, but that the bonds were not delivered, on account of the interruption of intercourse with said Indians, occasioned by the war of the rebellion.

That, after the close of the war, intercourse was restored, and the treaty of April 28, 1866, was agreed to between the United States and said Indians, which contains the following provision, viz:

ARTICLE X. The United States re-affirms all obligations arising out of treaty stipulations or acts of legislation with regard to the Choctaw and Chickasaw Nations, entered into prior to the late rebellion, and in force at that time, not inconsistent herewith; and further agrees to renew the payment of all annuities and other moneys accruing under such treaty stipulations, and acts of legislation, from and after the close of the fiscal year ending on the 30th of June, in the year (1866) eighteen hundred and sixty-six. (Statutes at Large, vol. 14, p. 774.)

That said Indians applied for these bonds, claiming that they were due under the before-mentioned act and said treaty.

That the Secretary of the Treasury referred the question to the Attorney-General for his opinion on the question of his authority to deliver them.

That the Attorney-General wrote an opinion on the subject, dated December 15, 1870, hereto appended, (marked A,) in the closing paragraph of which he says:

Waiving all discussion of the desirableness, on grounds of expediency, of immediate authority from Congress, and responding to your question according to my judgment of the law of the case, I am of the opinion that you may lawfully issue the bonds to the Choctaws.

That the Secretary of the Treasury communicated this decision of the Attorney-General to Congress for such action as might be deemed proper, in a letter dated December 20, 1870.

That this letter, and said decision of the Attorney-General, were referred by the Senate to the Committee on Indian Affairs, which, after careful examination on the part of the late Senator Davis, and a full committee, on the 5th of January, 1871, made the following report, viz:

The Committee on Indian Affairs, to which was referred the communication of the Secretary of the Treasury to Congress, transmitting a copy of the opinion of the Attorney-General of the United States upon the claim of the Choctaw Nation of Indians for \$250,000 of United States bonds, have had the same under consideration, and report:

They have examined the opinion of the Attorney-General, and concur with him in his reasonings and conclusions. There is a subsisting treaty between the United States and the Choctaw Nation of Indians which entitles said nation to two hundred and fifty thousand dollars of bonds of the United States of America, and which requires the President to make and deliver that amount of said bonds to said Indian nation. This treaty is the supreme law of the land, and the President is charged with its execution as a ministerial function. He has full authority to execute that law by the

making and delivery of those bonds, in compliance with the treaty, to the proper authorities of the Choctaw Nation: Wherefore they report this resolution:

Resolved, That the President having full authority under existing law to issue and deliver to the Choctaw Nation of Indians two hundred and fifty thousand dollars of United States bonds, no other legislation by Congress is necessary to that end. (Senate Committee Reports, third session Forty-first Congress.)

That on the same day this resolution was adopted by the Senate, and the Secretary was ordered to communicate a copy of the said report and resolution to the President of the United States. (Senate Journal, third session Forty-first Congress, page 95.)

That the Secretary of the Treasury having declined to deliver the bonds, Congress put the following provision in the Indian appropriation bill of March 3, 1871:

For contingent expenses of trust-funds, heretofore and to be hereafter incurred, three thousand dollars; and the Secretary of the Treasury is hereby authorized to issue to the Choctaw tribe of Indians, bonds of the United States to the amount of two hundred and fifty thousand dollars as directed by the act of March 2, 1861, entitled "An act making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes."

That after a delay of nearly two years to carry into effect this law, the Secretary of the Treasury has sent to Congress his letter of January 6, 1873, accompanied by a report from the Solicitor of the Treasury, dated November 14, 1872, which was referred to this committee, and is the subject of this report, assigning his reasons for non-compliance.

Your committee have carefully considered the reasons as stated, in his letter and report of the Solicitor, and find them to be substantially as follows, viz:

1st. That in the opinion of the Solicitor of the Treasury, in which the Secretary partially concurs, the President and the Senate erred in making the treaty of June 22, 1855, admitting that anything might be due the Choctaws as claimed by them, and providing a tribunal for its adjudication.

2d. That the Senate erred in making the award of March 29, 1859, and in directing the Secretary of the Interior to state an account in pursuance thereof.

3d. That the Senate Committee on Indian Affairs erred in recommending the payment of \$2,332,560.85 in their report of June 19, 1860, or any sum whatever, as due these Indians.

4th. That Congress erred in the enactment of the law of March 3, 1871, directing the delivery of \$250,000 of bonds, not previously delivered under the act of March 2, 1861.

And as evidence in support of these conclusions produces a copy of an act of the Choctaw legislature, dated November 6, 1852, which the Secretary thinks is conclusive that this Choctaw claim has not only been paid, but is barred by a receipt in full given by the authorities of the Choctaw Nation of Indians, and also a long list of payments made by the United States to these Indians, and advantages conferred on them by the Government under the treaty of 1830, which he seems to think bars the equity and justice of any additional payments.

Your committee have carefully examined and weighed these considerations and find—

1st. That the act of the Choctaw Nation of November 6, 1852, which is claimed to be a receipt in full, is dated several years prior to the treaty of June 22, 1855, and could not be considered in law as barring claims arising under said treaty and subsequent acts of Congress. That said "receipt in full," given in pursuance of a prior act of Congress, requiring it as a condition-precedent to the payment covered by said receipt

(Statutes at Large, vol. 10, p. 19) might have been treated by the United States as a final conclusion of the controversy over the subject-matter. But it was not so treated. By agreement of both parties this settlement was again opened under the stipulations of the treaty of June 22, 1855. The right of the contracting parties to re-open a question previously settled is too clear to need argument. That this question was so re-opened is a fact that will not admit of dispute. And having been thus re-opened and re-adjudicated by the tribunal agreed on by the parties, and an award having been made by it of a large sum as still due the Choctaws, and Congress having by two several acts directed the payment, in part, of this award, it is, in the opinion of your committee, too late to plead a prior settlement in bar.

2d. Your committee also find that the "receipt in full" covered only a comparatively small part of the subject-matter of the Choctaw claims submitted to the Senate for adjustment by the treaty of June 22, 1855, and that it was fully considered by the Secretary of the Interior and deducted from the total sum, which otherwise would have been found to be due the Choctaws in the Secretary's statement of account. The "receipt in full" is for money paid the Choctaws in the redemption of scrip issued to them under the treaty of September 27, 1830, in lieu of lands to which they were entitled and never received. The total amount of scrip issued was divided into two equal parts. One-half was delivered to the Indians. The other half was held by the Government as a trust fund, on which interest was paid by the Government to said Indians at the rate of 5 per cent. per annum. The half thus held in trust, with accrued interest, amounted to \$872,000, and is the sum covered by said receipt of November 6, 1852. But it will be seen, on examination of the account as stated by the Secretary of the Interior, that the Indians are charged with the value of this trust-fund scrip, and also with the value of the other scrip previously delivered to the Choctaws at \$1.25 per acre, both together amounting to \$1,749,900.

Your committee also find many matters mentioned in Solicitor Banfield's report as benefits conferred on said Indians, under the treaty of 1830, erroneously stated; and, on a careful comparison of said Solicitor's report, so far as a comparison is possible, with the account stated by the Secretary of the Interior, that each and all the items *correctly* stated by the Solicitor are charged against the Indians in the said statement of account by the Secretary of the Interior.

From a careful examination of the whole subject, your committee entertains no doubt that the whole subject was fully understood by the Committee of Indian Affairs when, on June 19, 1860, they recommended the payment of \$2,332,560.85, and by Congress, when, by the act of March 2, 1861, they directed the payment of \$500,000 on account, in pursuance of the Senate award. And this committee find nothing in the history of the case to justify the conclusion that the Secretary of the Interior, in his statement of account, or the committee of that date, in their recommendation, or Congress, in ordering a payment on account, committed any substantial error against the interests of the United States; but are of the opinion that if the case were re-opened and adjudicated as an original question by any impartial umpire, a much larger sum would be found due said Indians, which they would undoubtedly recover were they in a condition to compel justice.

This conclusion will be clearly established by a reference to a few facts bearing on the alleged grievances of the Choctaw Indians.

Their grievances, which the United States agreed to redress, under the provisions of the treaty of 1855, were threefold:

1st. That the treaty of 1830 was not made by them of their own unrestrained will and choice.

This allegation should be admitted, as it is admitted in the preamble to the treaty itself, which is in these words, viz:

Whereas the general assembly of the State of Mississippi has extended the laws of said State to persons and property within the chartered limits of the same, and the President of the United States has said that he cannot protect the Choctaw people from the operation of these laws: Now, therefore, that the Choctaws may live under their own laws in peace with the United States and the State of Mississippi, they have determined to sell their lands east of the Mississippi, and have accordingly agreed to the following articles of treaty.—(Statutes at Large, vol. 7, p. 333.)

It is therefore clear that they consented to this treaty, and consequent removal, to avoid their subjugation and extinction as an independent people. The history of the transaction also proves that they utterly refused to sign the treaty until brought to do so by threats and intimidation. Consequently, by the most obvious principles of law and justice, they were not morally bound by its provisions.

2d. They complained that the terms of the treaty did not award them adequate consideration for the value of the land, the losses of property, and the personal sacrifices and hardships required by the removal to the western country, had these several provisions been fairly carried into effect.

This will be abundantly proved by an examination of the treaty itself. The chief amount of money promised as a consideration for these lands, amounting to 10,432,139 $\frac{69}{100}$ acres, under the treaty of 1830, was an annuity of \$20,000 per year for twenty years. The other considerations of pecuniary value requiring payments of money were chiefly for losses of property, expenses of removal and subsistence at their new homes, which they would not have incurred had they remained on their eastern lands.

And, contrary to the general impression, the Choctaws did not receive any western lands under the provisions of this treaty of 1830. Ten years before, under the treaty of October 13, 1820, they ceded to the United States 4,150,000 acres of land in Mississippi, covering more than half the river-front, and took in part payment their western lands, being a large tract embracing a considerable district falling in the western part of Arkansas, and extending westward to the western boundary of the United States. And, on the other hand, the Choctaws, in the treaty of 1830, cede to the United States all that part of their western lands lying in Arkansas, and west of the one hundredth meridian. The only lands they were promised under the provisions of the treaty of 1830 were homesteads of 640 acres to each head of a family; 320 acres to each child over ten years of age; and 160 to each child under ten years, of such Choctaws as might consent, within six months, to remain in Mississippi and become citizens of the United States, to be selected in the tract ceded by this treaty; which provision it was expected would not include a considerable number. Hence it will be seen that about all the money consideration promised these Indians as a consideration for the value of this vast tract of over 10,000,000 acres of the best cotton and sugar lands in the State of Mississippi, was the annuity of \$20,000 a year for twenty years; probably not equal to the value of that part of their western lands ceded to the United States by the Choctaws under this treaty, which lands they acquired in exchange for Mississippi lands in 1820; and your committee conclude that to insist that the Indians were promised adequate compensation for their Mississippi lands would be the most naked mockery.

3. The Choctaws insist that the provisions of this treaty of 1830, although providing such adequate compensation for lands, losses, and suffering, were not carried into effect in good faith by the United States, according to their plain intendment.

That they had abundant grounds for this complaint, your committee find ample proof in the history of these transactions.

They were not furnished with an adequate opportunity within the stipulated period of six months to register their desire to become citizens of the United States and select their homesteads; to remove their stock, of which they owned immense herds, to the western country, or to prove the value of that necessarily lost on account of a forced removal; or the value of improvements abandoned; or adequate means of transportation of their families and household effects; or proper subsistence on the journey and after their arrival; nor a fair equivalent for the head-rights to which many were entitled, which they were forced to abandon.

Your committee are therefore of opinion that the payment of the net proceeds of the sales of their reserve in Mississippi, under the circumstances, as awarded by the Senate, deducting therefrom all payments actually made to them under the provisions of the treaty of 1830, being chiefly expenses incurred on account of removal, would be far below what justice required.

The total net proceeds of their lands, deducting therefrom all payments made under the provisions of the treaty of 1830, were, as we have seen, \$2,981,247.30; as corrected by the committee in their report of June 19, 1860, it was reduced to \$2,932,560.85.

To charge these Indians with, and to deduct from said amount, the further sum of \$600,000, paid the Choctaws under this treaty for the lease of lands in the western country for the use of other Indians, would be clearly unjust; for, as before stated, these western lands were acquired by the Choctaws in part payment for lands ceded to the United States in the treaty of 1820, and were the property of the Choctaws ten years before the treaty of 1830 was made.

But as the Committee of the Senate on Indian Affairs state in their report of June 19, 1860, that the Choctaws expressed a willingness to admit this charge and to accept the residue, being \$2,332,560.85 in stocks of the United States, your committee are of opinion that this sum should be paid them with accrued interest from the date of said award, deducting therefrom \$250,000, paid to them in money, as directed by the act of March 2, 1861; and, therefore, find no sufficient reason for further delay in carrying into effect that provision of the aforementioned act, and the act of March 3, 1871, by the delivery of the bonds therein described with accrued interest from the date of the act of March 2, 1861.

EXHIBIT A.

DEPARTMENT OF JUSTICE, *December 15, 1870.*

SIR: In answering the question propounded in your letter of the 29th of September, 1870, it is necessary that I should consider a series of treaties and statutes.

In the treaty of June 22, 1855, with the Choctaw and Chickasaw Indians, (11 United States Stat., p. 611,) it was provided that certain claims of the Choctaws against the United States set up under a prior treaty should be submitted for adjudication to the Senate of the United States. The Senate does not appear to have ever adjudicated the claim by any separate action; but in the Indian appropriation act of March 2, 1861, it was provided that there should be paid "to the Choctaw Nation or tribe of Indians, on account of their claim under the eleventh and twelfth articles of the treaty with said nation or tribe made the 22d of June, 1855, the sum of \$500,000; \$250,000 of which sum shall be paid in money; and for the residue, the Secretary of the Treasury shall cause to be issued to the proper authorities of the nation or tribe, on their requisition, bonds of the United States, authorized by law at the present session of Congress; provided that in the future adjustment of the claim of the Choctaws, under the treaty aforesaid, the said sum shall be charged against the said Indians." (12 United States Stat., p. 238.)

In the Indian appropriation bill of July 5, 1862, (12 United States Stat., p. 528,) it was provided "that all appropriations heretofore or hereafter made to carry into effect treaty stipulations, or otherwise, in behalf of any tribe or tribes of Indians, all or any portion of whom shall be in a state of actual hostility to the Government of the United States, including the Cherokees, Creeks, Choctaws, Chickasaws, Seminoles, Wichitas, and other affiliated tribes, may and shall be suspended and postponed wholly or in part at and during the discretion and pleasure of the President," and the President was further authorized to expend any unexpended part of previous appropriations for the benefit of said tribes, for the relief of such individual members of the tribes as had been driven from their homes and reduced to want, on account of their friendship to the Government.

In the Indian appropriation act of March 3, 1865, (13 United States Stat., p. 562,) the Secretary of the Treasury is authorized and directed, in lieu of the bonds for the sum of \$250,000 appropriated for the use of the Choctaws in the act of March 2, 1861, "to pay to the Secretary of the Interior \$250,000 for the relief and support of individual members of the Cherokee, Creek, Choctaw, Chickasaw, Seminole, Wichita, and other affiliated tribes of Indians who have been driven from their homes and reduced to want on account of their friendship to the Government."

On the 28th of April, 1866, a treaty was made with the Choctaw and Chickasaw Indians, (14 United States Stat., p. 769,) the tenth article of which is in the following words: "The United States re-affirms all obligations arising out of treaty stipulations, or acts of legislation, with regard to the Choctaw and Chickasaw Nations, entered into prior to the late rebellion and in force at that time, not inconsistent herewith; and further agrees to renew the payment of all annuities and other moneys accruing under such treaty stipulations and acts of legislation from and after the close of the fiscal year ending on the 30th of June, in the year 1866." The forty-fifth article is in these words: "All the rights, privileges, and immunities heretofore possessed by said nations, or individuals thereof, or to which they were entitled under the treaties and legislation heretofore made and had in connection with them, shall be, and are hereby declared to be, in full force, so far as they are consistent with the provisions of this treaty."

The Choctaw Indians have made requisition on the Secretary of the Treasury for bonds of the United States to the amount of \$250,000 under the act of March 2, 1861; and the question upon which you desire my opinion is, whether such bonds may lawfully be issued to them.

Without considering the effect of other legislation on the subject, I am of the opinion that the act of March 3, 1865, withdrew from the Secretary of the Treasury the authority, vested in him by the act of 1861, to issue the bonds; and unless that authority is revived in the treaty of July, 1866, it does not now exist. But I am further of opinion that such authority is revived by that treaty, if a treaty can have such effect.

By the treaty the United States re-affirms all obligations arising out of treaty stipulations or acts of legislation with regard to the Choctaw and Chickasaw Nations, entered into prior to the late rebellion and in force at that time. In every reasonable sense of the word obligations as used in that treaty, the provision in the act of 1861, for issuing the bonds, was an obligation. Liberal rules of construction are adopted in reference to Indian treaties, (5 Wall., p. 760.) It was an obligation which grew out of a treaty stipulation and an act of legislation in part execution of a treaty stipulation. It was entered into prior to the late rebellion. It was in force when the rebellion began. Thus it answers every part of the description in the treaty.

The sections of the treaty above quoted, together with others of its provisions, place these Indians, as to all dues from the Government, just as they stood at the outbreak

of the rebellion, in April, 1861. To re-affirm obligations arising out of a repealed act of legislation must signify the restriction of the parties to the positions in which they stood when the act of legislation was in force.

The serious question, however, does not relate to the meaning, but to the authority of the treaty of 1866. The statute of March 3, 1865, repeals the direction of the Secretary of the Treasury in the act of March 2, 1861. The treaty undertakes to revive that direction. Is such an act within its competency?

By the sixth article of the Constitution, treaties as well as statutes are the laws of the land. There is nothing in the Constitution which assigns different ranks to treaties and to statutes. The Constitution itself is of higher rank than either by the very structure of the Government. A statute not inconsistent with it, and a treaty not inconsistent with it, relating to subjects within the scope of the treaty-making power, seem to stand upon the same level, and to be of equal validity; and, as in the case of all laws emanating from an equal authority, the earlier in date yields to the later.

In 1791, Mr. Madison wrote as follows: "Treaties, as I understand the Constitution, are made supreme over the constitutions and laws of the particular States, and, like a subsequent law of the United States, over pre-existing laws of the United States; provided, however, that the treaty be within the prerogative of making treaties, which no doubt has certain limits." (Writings of Madison, vol. i, p. 524.)

In the United States *vs.* The Schooner Peggy, (1 Cranch, p. 37,) the Supreme Court of the United States, in an opinion delivered by Chief Justice Marshall, held, in effect, that a treaty changed the pre-existing law, "and is as much to be regarded by the court as an act of Congress."

In Foster and Elam *vs.* Neilson, (2 Peters, p. 253,) the Supreme Court says: "Our Constitution declares a treaty to be a law of the land. It is, consequently, to be regarded in courts of justice as equivalent to an act of the legislature, whenever it operates of itself without the aid of any legislative provision;" and, in applying this principle to the case before them, say that if the treaty then under consideration had acted directly upon the subject, it "would have repealed those acts of Congress which were repugnant to it."

In Taylor *vs.* Morton, (2 Curtis, C. C. R., p. 454,) it was held that Congress may repeal a treaty so far as it is a municipal law, provided its subject-matter is within the legislative power of Congress.

The just correlative of this proposition would seem to be that the treaty-making power may repeal a statute, provided its subject-matter is within the province of the treaty-making power.

Attorney-General Cushing, in 1854, after a full examination of the subject, came to the conclusion that a treaty, assuming it to be made conformably to the Constitution, has the effect of repealing all pre-existing Federal law in conflict with it. (Opinions, vol. vi, p. 291.)

Hamilton says: "The treaty power binding the *will* of the nation must, within its constitutional limits, be paramount to the legislative power which is that will; or at least, the last *law* being a treaty, must repeal an antecedent contrary law." (Works of Hamilton, vol. vi, p. 95.)

Again: It is a question among some theoretical writers, whether a treaty can repeal *pre-existing laws*.

This question must always be answered by the particular form of government of each nation. In our Constitution, which gives, *ipso facto*, the force of law to treaties, making them equal to the acts of Congress, the supreme law of the land, a treaty must necessarily repeal an antecedent law contrary to it, according to the legal maxim that "*leges posteriores priores contrarias abrogant*." (*Ibid.*, vol. vii, p. 512.)

An engagement to pay money is certainly within the province of the treaty-making power, and I cannot perceive that such an engagement is carried beyond that province by the circumstance that it provides for issuing through the agency of a particular officer an obligation to pay money at a particular time; for such, in effect, is a bond.

Can the Secretary of the Treasury issue the bonds without a new direction from Congress? In other words, is the treaty a law for him, or can he know no laws except such as are passed by Congress?

The Secretary is an officer of the executive department of the Government. It is established by a long course of authoritative opinion and conforming practices that, in many cases, the Executive of the United States can execute the stipulations of a treaty without provision by act of Congress. In some instances this has been done as a general executive duty, when the treaty itself pointed out no particular mode of execution. This was the course taken in the case of Thomas Nash, otherwise called Jonathan Robbins, who was delivered up by the direction of President Adams to the British authorities, in execution of the treaty with Great Britain of 1794. An attempt to bring the censure of Congress upon the President for this act was encountered by an argument from Chief Justice Marshall, then a Representative from Virginia, which exclusively established the power. In other cases the President has acted when the mode of action was pointed out in the treaty.

In the treaty of Washington of 1842 there was a provision for extradition of criminals. Prior to any legislation for carrying out this provision of the treaty, it was executed by officers of the United States. In 1845, James Buchanan, Secretary of State, issued a warrant for the arrest of certain persons, subjects of Great Britain, who were charged with a crime committed under British jurisdiction and against British laws, and it was decided by Mr. Justice Woodbury, upon the return to a writ of *habeas corpus*, that the warrant and the arrest were legal. (1 Woodbury & Minot's Rep., p. 66.) The learned justice remarks: "It is here only on the ground that the act to be done is chiefly ministerial, and the details full in the treaty, that no act of Congress seems to me necessary." (*Ibid.*, p. 74.)

Attorney-General Nelson, in discussing this treaty, remarks: "It has been made under the authority of the United States, and is the supreme law of the land. It has prescribed by its own terms the manner, mode, and authority in and by which it shall be executed. It has left nothing to be supplied by legislative authority, but has indicated means suitable and efficient for the accomplishment of its object. It needs no sanctions other or different than those inherent in its own stipulations, and requires no aid from Congress. Surely it cannot be necessary to invoke the legislative authority to give it validity by its re-enactment." (4 Opinions, p. 209.) This language may be fitly applied to the treaty with the Choctaws.

I am aware of the distinction which has been taken between such treaties as do and such as do not import a contract, and of the current notion that, in the former case, Congress must act before the treaty can be executed. But the practice of the Government in extradition treaties and in other sorts of international covenants has been at variance with this notion.

If the Executive may constitutionally execute a treaty for delivering persons to a foreign jurisdiction, it may well feel authorized by the Constitution to execute a treaty that stipulates for the less important matter of issuing bonds.

According to Article I, section 9, of the Constitution, as construed by the practice of the Government, an act of Congress is necessary to appropriate money to pay the public debt, however created. The change of the form of the debt, from a general stipulation in the treaty to bonds with particular provisions, does not take away that necessity. The time for the exercise of whatever power Congress has over the subject will come when provision for the payment of the bonds is to be made.

Waiving all discussion of the desirableness, on grounds of expediency, of immediate authority from Congress, and responding to your question according to my judgment of the law of the case, I am of opinion that you may lawfully issue the bonds to the Choctaws.

Very respectfully, your obedient servant,

A. T. AKERMAN,
Attorney-General.

HON. GEORGE S. BOUTWELL,
Secretary of the Treasury.

IN THE SENATE OF THE UNITED STATES.

JANUARY 23, 1873.—Ordered to be printed.

Mr. PRATT, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of Albert F. Watson, guardian of Hendrick S. Carter and Emma J. Carter, minor children of Samuel M. Carter, deceased, submit the following report:

It is claimed in the memorial that said Carter enlisted in Company A, Twenty-sixth Maine Volunteers; was duly examined and accepted by the surgeon on September 10, 1862; that he arrived in Bangor on the 15th of that month, and that, while there, he took a severe cold, and was seized with the typhoid fever, of which he died October 31, 1862. It is said the company was mustered into service October 22, but that Carter was at that time too sick to be mustered.

He left, as is alleged, a widow and the two minor children above named. The widow is dead. It is claimed that he took cold in consequence of the unwholesome condition of the barracks at camp "John Pope," where the company was quartered; the barracks being constructed of green lumber, and the straw furnished the soldiers being damp.

The pretended enlistment paper under which this claim is made is as follows:

STATE OF MAINE,
Troy, August 30, 1862.

We, the undersigned, by our signatures hereunto annexed, do severally agree to serve as infantry or riflemen, as volunteers from the State of Maine, in the service of the United States, for the period of nine months from the date of our being mustered into the United States service, and in lieu of the drafted militia, under the call of the President of August 4, 1862, it being understood and agreed that we are to be subject to all laws, orders, and regulations of the United States and its authorities.

This paper must contain none but *original* signatures, the first Christian name in full.

The Adjutant-General, upon the submission of this paper to him, decided that Carter was never enlisted or mustered into the United States service; that his signing an agreement to enlist, in lieu of the draft, under the call of August 4, 1862, was not accepted as evidence of enlistment into the United States service. This criticism seems to be warranted by the reading of the paper. There is in that no contract that is capable of enforcement under existing law.

It is said, by way of argument, that there was unnecessary delay in the mustering in of the men who signed that agreement, and who were in camp, under daily drill, ready to be mustered in, and that this delay should not affect injuriously this claim. Had Carter been mustered, there would be no doubt of the right of his widow and minor children to a pension. Had he even been enlisted in the regular way, that right

would have existed. But he was neither enlisted nor mustered. His name is not borne upon the company rolls. It was a mere voluntary agreement, entered into, it seems, to relieve the town or county of the draft, looking to an incorporation into the Army, but as yet no part of it, and not recruited by any officer of the United States. The soldier never rendered a day's service to the Government.

Passing by these objections, there is no evidence of the marriage of Carter, of the birth and date of birth of the children, nor of the appointment of a guardian, nor that Carter's death resulted from exposure, save the affidavit of Captain Fletcher. There is no medical testimony whatever.

The committee, therefore, recommend that the petition be indefinitely postponed.

IN THE SENATE OF THE UNITED STATES.

JANUARY 23, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

R E P O R T :

[To accompany bill H. R. 2535.]

The Committee on Pensions, to whom was referred the bill (H. R. 2535) for the relief of the minor children of Captain William E. Scherr, submit the following report :

Congress passed a private act on March 1, 1869, directing the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension-laws, the name of Sarah A. Scherr, widow of Captain William E. Scherr, late of the Twenty-sixth Regiment of Pennsylvania Volunteer Infantry, and pay her a pension, commencing May 1, 1864. (See volume 15, Stat. at L., ch. 95, p. 449.)

The widow in her memorial to Congress represents that she is the mother and guardian of the minor children of Captain Scherr, to wit, Emiline W., aged thirteen years in August, 1871, and Harry Percy, aged eleven years in April, 1871; that she remarried on July 31, 1869; and as the act in question made no provision for his children on the happening of that event, she asks that her pension, from the date of her remarriage, may be transferred to them. The bill accomplishes that prayer, and, as the committee construe it, it continues the entire pension until the youngest child becomes sixteen years of age. Evidence from the Pension-Office shows that the deceased left two children, one born August 22, 1858, the other born April 26, 1860. It is not known to this committee upon what evidence this private act was passed. The pension was limited to the widow herself, and we must assume for sufficient reasons. It dated from May 1, 1864. With a knowledge of the conditions of the pension, the widow married again. We may assume that her children were incorporated in the new family relation. We have no information that they need this pension for support. There is not a particle of evidence before us, except the memorial, which is not sworn to. We do not think that Congress intended to provide for her children in the event which has happened. We do not know they need the pension.

In the absence of any proof upon the points suggested, and looking to the fact that Congress, in this private act, has provided for the widow *alone*, we see no reason why we should indulge in presumptions not warranted in anything before us. The committee therefore recommend the indefinite postponement of the bill.

IN THE SENATE OF THE UNITED STATES.

JANUARY 23, 1873.—Ordered to be printed.

Mr. BUCKINGHAM, from the Committee on Indian Affairs, submitted the following

R E P O R T :

The Committee on Indian Affairs, to whom was referred the claim of the Northwest Fur Company for supplies furnished Indians at Fort Union, Dakota Territory, in March, 1866, report :

That in February, 1869, the Secretary of the Interior transmitted to Congress a claim of the Northwest Fur Company, amounting to \$20,501.70, for money paid Indian soldiers for defending Fort Union, Dakota Territory, between the 1st of December, 1866, and the 30th of April, 1867, and for supplies furnished such Indians and their families during the same time. Messrs. Brugier & Geowey also presented a claim for supplies furnished the Indians during the same period. The accounts were referred to the Committee on Indian Affairs; and as both rested upon the same state of facts, both were considered in a report which was made to the Senate on the 1st day of February, 1871, adverse to the payment of the claims. The further consideration of the subject was indefinitely postponed and the committee discharged. (Sen. Rep. 337, 41st Cong., 3d ses.)

On the 7th day of February, 1871, the Secretary of the Interior transmitted to the Speaker of the House of Representatives another bill of the Northwest Fur Company against the United States, amounting to \$12,575.18½, for supplies furnished Indians of the same agency during the month of March, 1866. The bill is certified by Mr. Wilkinson, United States Indian agent, as being correct and just, and that the supplies were necessary to prevent starvation among the Indians, and that he had no money in his hands applicable to the payment of the same. On the 3d day of February, 1871, Mr. Wilkinson made oath, before a justice of the peace in this the city of Washington, that the Indians comprising the agency returned from a hunt about the 1st of April to Fort Union; that many had perished from starvation, and that to prevent deaths the Northwest Fur Company, with his approval, provided them with supplies.

In examining this claim, in connection with the one which had been previously made by this company, it appears that this bill of particulars was certified to by Mr. Wilkinson two days after the action of the Senate on the adverse report of the Committee on Indian Affairs upon the first bill; that the first bill which had been presented was for supplies which were said to have been delivered between November, 1866, and May, 1867, and that this bill was for supplies said to have been furnished eight months previous.

It is difficult for your committee to conceive of a good reason why a company should present a claim for the payment of supplies furnished at one period which did not include those previously supplied, or how an agent could give a correct certificate of the quantity of those which had been furnished nearly five years previous to the time of making such certificate. It is also very remarkable that this claim, if right and just, should not have been presented until the first claim had been rejected, and that it should follow so closely upon such rejection.

Your committee find it impossible to reconcile the dates, certificates, and statements which accompany these bills with each other, and are satisfied that they are so destitute of proof that their payment would encourage extravagant, if not fraudulent, claims, which if allowed would be a robbery of the public Treasury.

They therefore report adversely upon this claim.

IN THE SENATE OF THE UNITED STATES.

JANUARY 23, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 2957.]

The Committee on Pensions, to whom was referred the bill (H. R. 2957) granting a pension to Mary E. Cochrane, report:

Mary E. is the widow of J. Stanly Cochrane. The evidence shows her to be a worthy and industrious woman, with several children. She was married to the deceased nearly twenty years ago. When the war broke out her husband entered the military service as a private in Company K, Nineteenth Ohio Volunteer Infantry. He was promoted to be first sergeant in December, 1861. He re-enlisted as a veteran in Company K, same regiment, on February 22, 1865, and was promoted to a second lieutenancy. His resignation was pending at the time of his death. He died in the hospital at Nashville, on May 6, 1865, and of delirium tremens. He was a good soldier, prompt, and faithful to duty—so those who served with him in the regiment say. They, of course, refer to the time when he was *fit* for duty. Many good people of Zanesville, Ohio, unite in petitioning Congress to allow Cochrane's widow a pension. So, also, do many members of the senate and house of the general assembly of Ohio.

It always detracts somewhat from the force of *ex-parte* written evidence that one man prepares it all and employs his own language and forms of expression to express the thoughts of the witnesses. All experience shows how much more strongly a fact is stated in an affidavit than when the witness is subjected to cross-examination, or even when allowed to tell his tale in his own way. So here, those who swear and those who petition all express themselves in language identical.

And it is further worthy of remark that it is the most easy thing in the world to get up petitions in favor of deeds of charity, when the signers are not made to contribute. Who would care to hold back and not join in an appeal which has for its object the relief of a widow and her children, when the head of the family perished in the war. And just here is the fallacy; Cochrane perished by his own hand. The record is not disputed that he died of delirium tremens. Notwithstanding that fact, Congress is asked to extend the benefit of the pension-laws, requiring death to occur in the service and in line of duty, to Mrs. Cochrane.

It seems to the committee that it would degrade the pension-roll and obliterate all distinctions between good and bad service on the part of the soldier to give a pension to the widow under these circumstances.

Drunkenness in officer or private is a crime, by the Articles of War. The officer may be cashiered; the soldier subjected to corporal punishment. The evidence shows that Lieutenant Cochrane had tendered his resignation. The cause may be imagined. A court-martial must have dismissed him from service, had he been subjected to trial.

The committee feel constrained to recommend the indefinite postponement of the bill.

IN THE SENATE OF THE UNITED STATES.

JANUARY 23, 1873.—Ordered to be printed.

Mr. HAMILTON, of Texas, submitted the following

R E P O R T :

[To accompany bill H. R. 2439.]

Petitioner is the mother of D. C. Mumford, late captain Company G, Nineteenth Regiment Massachusetts Volunteers, who was killed in action at Prospect Hill, Virginia, May 31, 1864. The papers show that he mustered into the service as second lieutenant of said company on the 28th August, 1861, and, by his efficiency and gallant conduct, rose to the rank of captain; that some four years after his death his father died, leaving his wife with two children under sixteen years of age.

Petitioner alleges that her husband for many years before his death had been in feeble health, and that her son, the late Captain Mumford, had contributed to the support of the family before and after he had entered the service; and this statement is verified by two of her brothers, Mr. Benjamin Dean and Mr. Thomas Dean, of Boston, Massachusetts. Yet no application seems to have been made to the Pension-Office or to Congress until some years after the death of her husband, who died in 1868. And the first application to Congress, 1870, appears to have been rejected partly on the ground that her dependence upon the late Captain Mumford did not appear in the statement of her case. Her application is strongly supported and urged by a great number of gentlemen of character and position in Massachusetts and Rhode Island, yet it seems not to have occurred to any one of them to present her case to the Commissioner of Pensions. Her two brothers are lawyers, and have interested themselves in preparing the case for the action of Congress, and most likely would have first filed the case in the Pension-Office, if confidence had been felt that it came within the pension laws.

It is only where technical objections lie against the allowance of otherwise meritorious cases that special relief should be granted.

IN THE SENATE OF THE UNITED STATES.

JANUARY 23, 1873.—Ordered to be printed.

Mr. HAMILTON, of Texas, submitted the following

REPORT:

[To accompany bill H. R. 2438.]

The applicant is the widow of Charles B. Davis, late captain Company F, Sixth Regiment Pennsylvania Cavalry Volunteers, who was killed on the 9th June, 1863, in action at Beverley Ford.

Petitioner applied to the Commissioner of Pensions in 1863, but for some reason, not shown by the papers in the case, her application was rejected; possibly because of some confusion in the military history of Charles B. Davis, as disclosed by the organization and monthly returns of the regiment to which he belonged, on file in the Adjutant-General's Office. It is certified from that Office that Charles B. Davis was enrolled on the 18th September, 1861, at Philadelphia, in Company E, Sixth Regiment Pennsylvania Cavalry Volunteers, and mustered into service as a second lieutenant on the 7th October, 1861, and that on the monthly return of that regiment for the month of June, 1863, Captain Charles B. Davis, of Company F, Sixth Regiment Pennsylvania Cavalry Volunteers, is reported killed in action at Beverley Ford, June 9, 1863. A certificate from the Pay Department also shows that Charles B. Davis was mustered and paid as captain of Company F, Sixth Regiment Pennsylvania Cavalry Volunteers, from November 1, 1862, to February 28, 1863.

It is at the same time shown by the certificates of the Adjutant-General that Charles B. Davis was mustered into the service as a captain on the 14th day of February, 1863, at Philadelphia, in Company F, Sixth Regiment Pennsylvania Cavalry Volunteers, to serve for three years, or during the war. In this certificate the Adjutant-General repeats the statement made in the former certificate, of the death of Captain Charles B. Davis, Company F, Sixth Regiment Pennsylvania Cavalry Volunteers, on the 9th June, at Beverley Ford, and adds that the muster and pay rolls of said company for May and June, 1863, are missing.

There seems little doubt that Lieutenant Davis, of Company E, and Captain Davis, Company F, Sixth Regiment Pennsylvania Cavalry Volunteers, were the same person; but there is no evidence filed since 1863 that the applicant has not married again. If she is still unmarried since the death of Captain Davis, the committee are of opinion the bill should pass.

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IN THE SENATE OF THE UNITED STATES.

JANUARY 23, 1873.—Ordered to be printed.

Mr. HAMILTON, of Texas, submitted the following

REPORT:

[To accompany bill H. R. 2437.]

Petitioner was a member of Company E, Second Regiment of the brigade known as Washington Guards, of the city of Philadelphia, commanded in the early part of 1861 by Brigadier-General William F. Small, who testifies that he was ordered by the then Secretary of War, Hon. Simon Cameron, on the 15th of April, 1861, to move said brigade to Washington for the defense of the capital, and in obedience to which he took a large portion of the brigade to Baltimore on the 18th of the same month, where the detachments were assaulted and repulsed by a mob on the following day, in which conflict many of his men were killed or wounded, and among the latter was Martin Zeeb, of Company E, Second Regiment of said brigade, losing an eye. It does not appear from the statement of the commanding officer whether any portion of the brigade reached, but the inference is that the survivors returned to, Philadelphia, where the brigade was re-organized into what was afterward known as the Twenty-seventh Pennsylvania Volunteers, and commanded by General Small as the colonel of the regiment. Petitioner states that he was sent back at once to Philadelphia, and placed in the Pennsylvania Hospital for treatment, where he remained about a month. It was not a Government hospital, and the patient not having been mustered into the service, no report of his case seems to have been made.

The evidence in respect to the service and injury received while in the line of duty is ample, being testified to by the commanding officer of the brigade, the first lieutenant of his company, and by two of his comrades who were present when the injury was inflicted. Upon this testimony petitioner based an application to the Commissioner of Pensions in 1869, which was rejected, upon what ground does not appear; but from inquiries made in regard to the military services and history of the applicant, it was because he had not been mustered into the service nor discharged, and had no surgeon's certificate from the hospital, and because the Adjutant-General certified that the Twenty-seventh Regiment of Pennsylvania Volunteers had not been organized or mustered at the date of the Baltimore riot. Petitioner does not state that he ever belonged to the Twenty-seventh Pennsylvania Volunteers, which nobody says was mustered in or organized until after the conflict at Baltimore on the 19th of April, 1861.

The presumption is that the brigade, under the command of General Small at Baltimore, were somewhat demoralized after the assault and repulse, and returned to Philadelphia in some disorder, many of the men composing it never having received any discharge. Petitioner says he received none.

It is difficult to see, with the testimony here presented, how the Commissioner of Pensions could have rejected the application under section 9 of the act of July 4, 1864. The committee recommend the passage of the bill.

IN THE SENATE OF THE UNITED STATES.

JANUARY 23, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 1802.]

The Committee on Pensions, to whom was referred the bill (H. R. 1802) granting a pension to John Nichman, submit the following report:

John Nichman was a private in Company I, Fifty-sixthth Regiment Pennsylvania Volunteers. He claims to have voluntarily enlisted; but the proof is he was drafted, and mustered into service on the 20th day of March, 1865, to serve one year. On the muster-out roll of the regiment, dated July 1, 1865, he is reported as mustered out with company on that date. The Adjutant-General says there is no evidence of disability on file.

It seems that more than five years after his muster-out Mr. Nichman made his declaration for a pension, and in that he swears that he *volunteered* at Hampton on the 20th March, 1865, for the term of *three* years.

The certificate of the Adjutant-General, on the contrary, is positive that he was drafted, and mustered into service for *one* year only.

In his declaration Nichman further swears that on or about the 10th day of May, 1865, at or near Fairfax Court-House, and while in the line of duty, he contracted a severe cold, which resulted in a large tumor on his neck; that he has been under constant medical treatment *ever since*, without finding any relief; and that, his occupation being that of a farm-laborer, he is in a great measure disabled from doing work.

This declaration was made on 7th of November, 1870.

On the 29th May, 1871, he made a second affidavit, in which he swears that it is impossible for him to furnish the testimony of any officer of his company or surgeon of the regiment, because he does not know where any of them live, and because from the nature of the case they could not help him if found. And he then proceeds to say that he took a severe cold, resulting in a tumor on his neck; but he was ignorant of the existence of a tumor there until after his discharge, when, upon shaving himself, he discovered it. He confesses he was not treated in any hospital, and that he received no medical treatment at all except for an ordinary severe cold. He says he had not been shaved for three months; his beard was long and very heavy, and completely covered that part of the neck on which is his tumor; and that it would have been impossible for him or any one else to have seen anything but hair on that part of the neck.

It is possible it occurred to the claimant or his attorney that though the sufferer could not see the tumor he might still feel it and be conscious of

its existence as a fact, and that this view might be taken of his case to his disadvantage. At all events, whatever was the prompting motive, he made still a third affidavit on the 9th day of February, 1872. In this, after speaking of contracting the cold, as before, which resulted in a tumor, he adds that he has "ever since been under medical treatment." This must refer either to the cold or to the tumor; and if the latter, here is an averment that it was medically treated if it existed before his discharge. Yet, further on, he declares that he had been home several days when, upon shaving, he saw the tumor for the first time, and applied to his family physician. He further declares here, for the first time, that though he saw no swelling while he was in the Army, he felt a constant trouble about his throat and neck; but not being able to see anything, he apprehended no serious effects.

Two mess and tent-mates, belonging to his company prove he took a severe cold at the time and place he swears to, and that he was a healthy man when he entered the service. Both swear they saw the tumor on his neck when he shaved on the Sunday after his return, and never saw it before, because of his beard, and that it was not there when he entered the service. They do not nor does any witness confirm his statement of suffering from the neck and throat before his discharge. If he complained, they did not hear it; or, at all events, do not speak of a fact so important.

It only remains to notice the medical proof. There is but one physician who testifies, and two affidavits are furnished from him; one made in November, 1870, the other in February, 1872. In the last he swears that Nichman was physically sound before entering the service; while, on being called to see him shortly after his discharge, he found he had contracted a cold, which affected his glandular system, and the result was an enlargement of the glands of the neck, which culminated in a tumor of very considerable size on the right side of the neck, of a fatty nature, causing him inconvenience and some danger. To cut it out is the only means of permanent relief, and he is of opinion that operation would endanger the patient's life.

His other affidavit does not differ materially from this one, except in the statement that the tumor grows very rapidly and has to be opened every two months. He adds that Nichman, being a farm laborer, he is disabled, except at short intervals, from performing manual labor. In both affidavits he states that the cold had affected his glandular system.

The contradictions of the claimant have already been noted. He swears he was a volunteer, while the military record shows he was drafted. He swears that *ever since* taking the severe cold he has been under medical treatment. The cold was taken the 10th of May, and he was discharged July 1, and he received no medical treatment until his return home, near two months after taking cold. It did not occur to him to make application for a pension on the ground of his disability having occurred in the service until more than five years after his discharge. Nor is there any excuse offered for this delay. His case is weakened by the absence of any proof from the officers of his regiment or company.

On the whole, the case is surrounded with too many doubts to justify the committee looking with favor upon it as meriting a pension, and they recommend the indefinite postponement of the bill.

IN THE SENATE OF THE UNITED STATES.

JANUARY 23, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 2536.]

The Committee on Pensions, to whom was referred the bill (H. R. 2536) granting a pension to Maria L. Lee, widow of Abel H. Lee, submit the following report:

Applicant states in her petition to Congress that she was the wife of Abel H. Lee. That on or about the 26th of July, 1861, said Lee was employed by General Mansfield as a scout, to ascertain the best points on the Potomac River for landing troops, and also to detect the places of transit of rebel mails. That in the performance of this duty he was captured by the rebels, confined in various rebel prisons for 16 months, and finally released. That owing to exposure, cruel treatment, and want of proper care in prison, his health became so impaired that after his release he was unable to earn a livelihood, and that from the effects of his imprisonment and treatment he died soon after his release.

The marriage is proven by sworn testimony of two witnesses, and marriage-license is submitted.

Drake DeKay, first lieutenant Fourteenth Infantry, United States Army, testifies to pay, employment, and services of Lee, and says, "The usual pay was \$30 per month, and gratuities, according to value of information."

General Mansfield's clerk certifies to the employment, services, and pay of Lee, and says, "His compensation, I feel sure, was more than \$30 per month, and must have been nearer \$75 or \$100 per month, though as to this I do not know."

Colonel L. H. Baker, provost-marshal, War Department, certifies to employment, services, capture, and confinement of Lee.

James R. Doughty, who was a prisoner with Lee at Richmond, Virginia, and at Salisbury, North Carolina, and was exchanged with him, certifies to Lee's imprisonment, ill-treatment, sickness, and subsequent ill-health, which he believes to have been caused by his treatment while a prisoner, and to have been the cause of his death.

Dr. W. J. C. Duhamel, U. A. A. surgeon, United States Army, testifies to previous good health of Lee, having known him for ten years previous to his employment by General Mansfield, and having been his family physician. He testifies to Lee's enfeebled health after liberation from prison, and says that he believes his imprisonment contributed much to hasten his death.

Mrs. Lee states that her case was rejected at the Pension-Office on account of there being no rate of pension fixed by law for scouts.

The committee think it a fair inference, from the testimony, that Mr. Lee died in consequence of the hardships he endured in the rebel prisons. But he was not a soldier. For reasons of his own, he did not enter the Army and serve his country in the usual way. He received, in wages and gratuities, a larger compensation than peaceful labor in the ordinary walks of life commanded, and this because of the risk he encountered in the dangerous service upon which he was employed. The committee cannot distinguish his case from that of all other detectives or scouts who were employed from time to time, as occasion demanded. If this bill pass, it is a precedent for all similar cases; not only that, but for all cases of disability that may have occurred upon like service. They are not prepared to establish such a precedent by the passage of this bill. If relief is extended to the widow, it should be by a general law which will embrace all cases like hers. The introduction of this bill is a confession that Congress has not hitherto, in its pension legislation, thought it proper to advance that far.

The committee therefore recommend that the bill be indefinitely postponed.

O

IN THE SENATE OF THE UNITED STATES.

JANUARY 24, 1873.—Ordered to be printed.

Mr. SCOTT submitted the following

R E P O R T :

[To accompany bill S. 1442.]

The Committee on Claims, to whom was referred the petition of Henry E. Janes, late private in Company B, Third Regiment Virginia Volunteers, and afterward a private in Company B, Sixth Regiment West Virginia Cavalry, the service having been changed by consolidation, praying that the pay and bounty stopped from him by sentence of court-martial for desertion be paid to him, submit the following report :

Henry E. Janes enlisted as a private on the 15th of June, 1861, and was assigned to duty in Company B, Third Regiment Virginia Volunteers, and served faithfully, participating in numerous battles, until the spring of 1863, when the regiment to which he was attached was ordered to West Virginia, (being at the time the rebel General Jones made his raid into the northeastern part of that State,) and was stationed at Clarksburgh, or near it, until after danger from Jones's forces had passed. The place at which his regiment was stationed was but eleven miles from Janes's home. He had enlisted when nineteen years of age, and had two brothers, at the same time, absent in the Union Army. His father visited him in camp, and to the earnestly-expressed wish of his aged mother to see him, added his own counsel to his son to leave for a day or two to visit her. The boy yielded, although telling his father that he ought not to do so, and remained at his home from Saturday evening until Tuesday morning, hearing each day from the regiment. When he learned that it had moved on Tuesday morning, he immediately left home and rejoined it, five miles from Clarksburgh.

Some time after young Janes had rejoined his regiment, he was summoned before a court-martial on the charge of desertion, before which he admitted the facts, and was sentenced to six months' imprisonment in Fort Delaware.

The case of young Janes having been presented to the President, he immediately remitted the remainder of the sentence, and Janes again joined his regiment, with which he remained until it was consolidated with parts of other regiments, which formed the Sixth Regiment West Virginia Cavalry, and in which he served until August 16, 1864, when he was honorably discharged by reason of expiration of term of enlistment.

When young Janes was mustered out, six months' pay (\$96) and the original bounty of \$100 were withheld from him, in consequence of his conviction and sentence. For the same reason he has not been paid

the additional bounty of \$100 to which he would have been entitled under the act of July 28, 1866. It will thus be seen that if the charge of desertion were removed he would now be entitled to receive the sum of two hundred and ninety-six dollars.

A number of young men who were at the same time in the military service, and whose homes were near Clarksburgh, seem to have taken the same "French leave" that young Janes did. Some of them, whose statements are filed with this petition, were absent for a much longer period than he, and their violations of duty appear to have been overlooked by the officers. One statement accounts for Janes's case having been made exceptional by the fact that his commanding officer was upon bad terms with him.

The case of Janes is accompanied by a statement of Hon. W. T. Willey, former member of the Senate, who speaks of the petitioner, and all the parties whose affidavits and certificates are filed, as living in the vicinity of his own home, as being respectable and men of veracity, and that personal inquiry has satisfied him of the truth of the statements, and of the merits of the case. The remission of Janes's sentence being in effect a pardon, the committee think he is entitled to the relief he asks, and report a bill accordingly.

IN THE SENATE OF THE UNITED STATES.

JANUARY 24, 1873.—Ordered to be printed.

Mr. BOREMAN submitted the following

REPORT:

[To accompany bill S. 1443.]

The Committee on Claims, to whom was referred the petition and accompanying papers of the heirs at law of Thomas Lawson, deceased, late Surgeon-General of the United States, praying payment of a balance of rent claimed to be due them from the United States, for the use and occupation of certain property in the city of Washington, D. C., have had the same under consideration, and respectfully submit the following report:

It appears that on the 30th day of January, 1861, Captain Morris S. Miller, assistant quartermaster United States Army, on behalf of the United States, and Charles Abert, on behalf of said Thomas Lawson, made and duly executed a contract in writing, whereby it was agreed (in the language of the contract) "that the said Captain Morris S. Miller has rented, and by these presents does rent, of the party of the second part all the houses, buildings, lots, and premises in square No. 169, lately occupied by Mrs. E. W. Smith, in said city of Washington, situated on G street, and running back to F street, between Seventeenth and Eighteenth streets, for the sum of two hundred and twenty-five dollars, current money of the United States, per month, payable monthly on the last day of each month. And the said Captain Morris S. Miller, for and on behalf of the United States, doth hereby covenant, promise, and agree to and with the said Charles Abert to keep all the buildings, houses, lots, and premises in good order and repair, and to surrender the same, when they shall be no longer required and occupied by the United States, in as good order and repair as he received the same, the usual wear and tear by time excepted." This contract was approved by indorsement thereon, on the day of its date, by the Secretary of War.

It will be seen that there is no limit of time in this lease, but the premises were to be "surrendered" when "no longer required and occupied by the United States." The rent agreed upon, to wit, \$225 per month, was regularly paid until August, 1862. It appears that on the 15th of the month last mentioned, Captain E. E. Camp, Assistant-Quartermaster-General, reported that he considered the rent too high, and that eighteen hundred dollars per annum (\$150 per month) would be "ample rent for the premises." Thereupon, by order of the Secretary of War, dated on the 22d of August, 1862, the rent was reduced accordingly to \$150 per month from that date, without any agreement or assent

thereto by or on the part of the heirs of said Thomas Lawson, he having died meantime. It is alleged in the petition that on the making of this order, and the refusal, which followed, to pay the sum per month agreed on as aforesaid, the petitioners at once, and repeatedly thereafter, demanded the surrender of the premises, but this was, also, and as often, refused. They received the \$150 per month, and continued to receive the same sum per month, because more was refused them, until the 1st of October, 1867, when, without any new contract, the payment of the \$225 per month was resumed and was continued thenceforward. The difference between the rent according to the contract and that received is \$75 per month, which for $61\frac{1}{3}$ months—the time for which it was withheld—amounts to the sum of \$4,600.

The contract to pay the rent as claimed was plain and explicit, was in writing, and was entered into, signed, and approved by the recognized authority of the Government. There is nothing in the evidence to show that the rent was more than reasonable, except the report of Captain E. E. Camp above referred to. Afterward, and without any new contract, the Government resumed the payment of the sum per month originally fixed and agreed upon in the written contract of lease, thus recognizing its continued validity, and that too when, so far as appears, rents were no higher than during the time the sum claimed by petitioners was withheld and was accruing. The committee, upon the facts as they appear to them, are not able to perceive any ground, either in law or fair dealing, why the sum claimed should not be paid, and they, therefore, report a bill therefor accordingly.

IN THE SENATE OF THE UNITED STATES.

JANUARY 24, 1873.—Ordered to be printed.

Mr. WEST submitted the following

R E P O R T :

[To accompany bill H. R. 1775.]

In this case, which contains the petitions of Kitty Ann Smith, widow of Thomas A. Smith, and of James A. Stevens, both of the Home Guards, of Ohio County, Kentucky, the committee submit the following report :

This company was in service some seven or eight months in 1861, and on the night of December 31, 1861, was ordered, by Colonel John McHenry, Seventeenth Kentucky Volunteer Infantry, to guard Borah's Ferry. Thomas Smith and Stevens were there captured while on duty, were taken to Salisbury, North Carolina, and exchanged as prisoners of war September 13, 1862. Smith was taken to United States hospital at Annapolis, and died there November 16, 1862, having received no pay for his services. Stevens was sent to Alexandria, and there discharged without pay. Case was rejected because they were not in United States Army. Adjutant-general's report of Kentucky attests the service and capture of these soldiers. The committee report the bill and recommend its passage.

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IN THE SENATE OF THE UNITED STATES.

JANUARY 24, 1873.—Ordered to be printed.

Mr. MORRILL, of Maine, submitted the following

REPORT:

[To accompany bill H. R. 2762.]

The Joint Committee on the Library, to whom was referred House bill No. 2762, entitled "An act providing for a life-size marble statue of the late Senator Edward Dickinson Baker," have attentively considered the same and report that—

The proposition is that the Congress of the United States shall provide a marble statue of one of its late members, to be placed in the national Capitol.

The hesitation to recommend a favorable consideration of the measure, the committee desire to state, arises from no lack of appreciation of the character and services, the eloquence and patriotism, of the distinguished man, the subject of it.

The instances are believed to be rare and exceptional where a legislative body has sought to commemorate its associates, living or dead, by the production of their effigies in sculpture or painting, to be displayed on the theater of their common action. The novelty of such a proposal could not fail to elicit remark were the propriety and expediency less questionable.

If this were not so, an embarrassment quite insurmountable must needs be encountered in any attempt to perpetuate such a practice. The obvious difficulty of determining where to begin would only be less than where to end, as the latter would devolve upon those who come after.

Once entered upon, it is not perceived that limitations could well be prescribed or enforced; and so the work of multiplying images of departed members must go on, defying alike all distinction or pre-eminence, and ending only with the capacity of the Capitol to contain more.

REPORT OF THE

COMMISSIONERS OF THE LAND OFFICE

FOR THE YEAR 1871

REPORT

OF THE COMMISSIONERS OF THE LAND OFFICE

The Commission on the Land Office, created by the Act of March 3, 1871, Chapter 22, Section 1, has the honor to submit to the Senate and House of Representatives the following report.

The Commission has the honor to acknowledge the receipt of the report of the Honorable Secretary of the Interior, dated March 1, 1871, and to express its appreciation of the same.

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IN THE SENATE OF THE UNITED STATES.

JANUARY 24, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

R E P O R T:

[To accompany bill H. R. 2910.]

The Committee on Claims, to whom was referred the bill (H. R. 2910) for the relief of Orville J. Jennings, submit the following report:

On the 30th day of December, 1868, Captain F. Harwood, of the Corps of Engineers, for and on the part of the United States, entered into a written contract with Samuel G. Hart and Orville J. Jennings, composing the firm of Hart & Jennings, for the removal by them, at their own labor and cost, of the old outer breakwater in the harbor of Dunkirk, N. Y.; that is to say, for leveling, by dredging or otherwise, to a depth of fourteen feet below United States standard low water, all stones at the rate of \$3 per cord, and in like manner for leveling to the same depth all old lumber for three cents per linear foot. They were to commence the work, if required, by 1st May, 1869, and complete the whole by 31st May, 1869, if so required.

The notice to contractors had been drawn up with care, and gave as full a representation of the nature of the work to be done as could be ascertained before the letting. It is not pretended that the engineer or inspector in charge of the work were guilty of any deception calculated to mislead contractors in engaging to do the work for inadequate compensation. There was great variety of opinion as to the difficulties to be encountered in performing the work, and this found expression in the bids offered, which were fourteen in number.

Hart & Jennings were the lowest bidders, at the rates set forth in the contract. They had made such probings and soundings as were practicable to enable them to bid judiciously, but, as the sequel shows, they entirely failed to grasp the real difficulties they subsequently encountered in the prosecution of their work. They bid on the supposition the crib-work had been detached, loosened, and could be easily grappled with and torn to pieces in detail.

The bids for leveling the stone ranged from \$3 to \$20 per cord. The bid next lowest Hart & Jennings was \$5 per cord. One was for \$19.70; several at \$10; some \$9. The average of the fourteen bids for this part of the work was \$9.90 per cord. The bids for removing the timber ranged from 3 cents per linear foot up to \$1. The average of the fourteen bids was 20½ cents per linear foot. And here, too, Hart & Jennings were the lowest bidders.

The work turned out to be of the most difficult description, and required three seasons instead of one to complete it. The engineer, the

inspector in charge of the work, the keeper of the light-house near by, and several others familiar with the nature of the work actually performed in removing the *debris*, unite in commending the contractor's diligence and energy, and they emphasize the great obstacles he encountered, both on account of stormy weather and the compacted condition of the cribs to be removed.

The old outer breakwater in the harbor, which was to be removed, commenced at a point near the east shore of and a short distance inside the point where the light-house now stands, and extended westward a distance of 210 feet. The plan and construction were of the most compact and solid character known to engineers, the cribs being 20 by 30 feet in size, and built of timbers of irregular dimensions, none being less than 12 inches square, framed with "dovetails" on the ends and secured by cross-ties strongly bolted with long iron bolts and tree-nails passing through several courses of timber, and additionally strengthened by sheath-piling from the inside, bolted through each and every timber, having a tendency to give to the whole work the solidity and strength of a solid mass. These cribs were originally sunk to an average depth of 17 feet and filled with stone, principally bowlders, many of them so large as to be handled only by the aid of a windlass. The foreman who superintended the construction and sinking of these cribs expresses the opinion that it would be impossible for any one to form an accurate or even adequate estimate of the strength of the work and the difficulty in its removal, without previous knowledge of the full nature of its construction and great strength. Other witnesses speak to the same effect. The site of the work being very exposed, a good deal of difficulty had been experienced in securing the cribs in the proper place, several having changed their position before safety was secured.

Other express the opinion that this crib-work was as firmly and strongly put together as iron and wood could make it. It had to be torn apart piece by piece. Much of the time the weather was boisterous and work impracticable or difficult. One dredge and a tug-boat were hired by the contractor, and he paid for their service upward of \$5,000, and that for one season only. His own dredge was stranded in a storm, got afloat with difficulty and had to be taken to Buffalo for repairs. When his was stranded, dredges commanded \$150 per day.

Diligently and faithfully for three seasons did he pursue the work, the contract being extended from time to time by the engineer in charge of the same, because of the uncommon difficulty encountered and the diligence and good faith evinced by the contractor. The witnesses express the opinion that Jennings completed the work thoroughly, and as expeditiously as the weather would permit.

During the progress of the work other appliances than dredging were resorted to—such as blasting and raising timbers by means of a Spanish windlass. But these experiments proved fruitless, after a great deal of submarine blasting and the wasting of much powder.

It had been supposed by the contractors in bidding that these cribs constituted a continuous line of work; but it turned out that many of them were detached, deeply sunken, embedded, and interlocked in such a manner as to entirely change the character of the work as originally constructed, and greatly increase the labor and expense of its removal. The dredge frequently tore up several pieces of timber joined together with long iron bolts and tree-nails, so strongly secured with sheath-piles that they could not be broken apart in detail. Indeed, the work was of the most honest construction and of great strength, and it is the testimony of experts that no one, unless fully informed of its construction

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and the changes it had undergone, and skilled by experience in the removal of similar obstructions, could possibly have made an approximate estimate of the cost of removal.

There were two inspectors of the work on hand at different times, superintending it as it progressed. Their testimony is before the committee. It does not leave a doubt that Jennings prosecuted the removal of the *débris* with just as much dispatch as was practicable. No Government officer censures him.

Now as to his losses. We speak of Jennings's losses, for his partner and co-contractor assigned all his interest in the contract and abandoned the partnership soon after this engagement with the Government was entered into.

Jennings paid Dunbar & Co., for the hire of their dredge-boat from July 30 to November 15, 1869.....	\$5,391 00
The services of the dredge and tug in 1870 and 1871, 62 days, at \$100 per diem, are valued at.....	6,200 00
Ditto for 1871, 44 days, at \$100 per day.....	4,400 00
Loss of time in repairing dredge, 20 days.....	2,000 00
Blasting material and labor for same.....	300 00
Total.....	<u>18,291 00</u>

One witness places the value of the work done at \$20,000.

What the contractor was entitled to receive from the United States by the terms of the contract for this work, occupying more than 100 days with the dredge, and running through three seasons, and what he did receive in point of fact, and all that he received, was the sum of \$1,867.05. What he received from the United States was only about one-third of the sum he paid for the hire of Dunbar & Co.'s dredge. His own dredge—the *America*—had to undergo repairs and have stronger machinery put in to overcome the difficulties of the work. Deducting the sum received from the cost of the work would leave a balance of \$16,423.95 due Jennings. But the House bill allows him \$10,000, even which, when paid, will, in the opinion of the committee, leave him still a loser. All the witnesses concur in the fact of the loss. Indeed, it is apparent enough, when he paid out to one firm three times the amount of his whole pay for the use of their dredge-boat. Some estimate his loss loosely by "thousands;" one says the work done was worth \$20,000. No one estimates it less than the sum given by this bill with the Government price paid added.

The committee are of opinion that while, under his improvident contract with the Government, there is nothing due to Mr. Jennings, yet it would be a reproach upon the justice of Congress to hold him to its strictness. He has performed it to the satisfaction of the agents of the United States in charge. A great obstruction to commerce has been removed and the work thoroughly done, and probably as fast as was practicable; and under it Jennings is actually out of pocket more than the \$10,000 this bill gives him. We think equity and good conscience require some indemnification in the premises, and accordingly recommend the passage of the bill without amendment.

IN THE SENATE OF THE UNITED STATES.

JANUARY 24, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 2507.]

The Committee on Pensions, to whom was referred the bill (H. R. 2507) granting a pension to Mary Petrie, submit the following report :

It appears from letter to Commissioner of Pensions, dated July 22, 1863, signed by Adjutant-General, that the rolls on file in his office show that George C. Petrie was enrolled, July 23, 1862, at Kalamazoo, Michigan, in Company D, Seventeenth Regiment Michigan Volunteers, to serve three years or during the war, and was mustered into service as a private August 8, 1862, at Detroit, in company and regiment as above. On the muster-out rolls of Company D of that regiment for the months of September and October, 1862, Petrie is reported "*deserted October 8, at Washington ; year not stated.*" Adjutant adds, "His name does not appear on any subsequent roll on file and there is no evidence of his death on file." Under date of October 15, 1868, Adjutant-General says Petrie was enrolled as above and mustered August 11, 1872, and adds, "on the muster-out rolls of Company D, Seventeenth Regiment, dated June 3, 1865, Petrie is reported *died at Washington, D. C., October 26, 1862 ; cause of death not stated.*" E. B. French, Second Auditor, says (November 26, 1869,) that Mary Petrie, widow of George C., was allowed pay to the 15th of December, 1862, on account of services of her husband. He also says, (November 19, 1867,) widow was allowed pay for services of said husband "from August 22, 1862 to 15th day of December, 1862, time of his death, and \$75 bounty, by act of July 22, 1861." Petrie is proved to have been a strong and healthy man when he entered the service.

Marriage is proved, by certified copy of original certificate, to have been solemnized in the city of New York, July 1, 1855.

David Fisher and Thomas S. Cobb, employers of Petrie for five years just previous to his enlistment, state that Petrie was a strong and healthy man on entering the service, and that they are informed and believe that he died at Washington, D. C., on or about the 15th of December, 1862, of exposure and disease contracted while in the service and in the line of his duty. They state that Mary Petrie has no property and is dependent upon her daily labor for the support of herself and family, which is corroborated by the statements of numerous petitioners to Congress on behalf of applicant, of Kalamazoo.

A. P. Blunt, brevet colonel and assistant quartermaster United States Army, says, (November 30, 1868,) to Surgeon-General, that Petrie died October 26, 1862, at the Central Guard-House, Washington, D. C., (cause of death not stated,) and was buried October 29, 1862, in grave 32, range 12, block 5, at the United States Military Asylum National Cemetery, D. C.

The Adjutant-General furnishes the following statement:

ADJUTANT-GENERAL'S OFFICE,
Washington, January 9, 1873.

SIR: In answer to your letter of December 24, 1872, I have to inform you that Private G. C. Petrie, Company D, Seventeenth Michigan Volunteers, is reported on the records of his company as having deserted September 8, 1862, at Washington, D. C. The records of this office have been amended from information received from the Surgeon-General of the Army, to show that he died in this city, October 26, 1862.

The charge of desertion has not been removed from his record, as it is not shown that he left his company by military authority, September 8, 1862, and for the additional reason that his whereabouts from September 8, 1862, to October 28, 1862, are not accounted for.

I am, very respectfully, your obedient servant,

THOMAS M. VINCENT,
Assistant Adjutant-General.

Hon. D. D. PRATT,
Chairman Committee on Pensions, United States Senate.

As the charge of desertion is not removed, and there is no proof which the committee deem reliable that Petrie died while in the service and in the line of duty, the committee feel constrained to recommend that the bill do not pass.

IN THE SENATE OF THE UNITED STATES.

JANUARY 24, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 2477.]

The Committee on Pensions, to whom was refered bill (H. R. 2477) granting a pension to John S. Hall, submit the following report:

Hall claims in his petition to have enlisted as a teamster on October 1, 1863, in Captain Stewart's company, fourth brigade, at Nashville, to serve for one year; that he served six months, when from exposure and fatigue he contracted a cold, which resulted in the total loss of sight in both eyes. In his affidavit, he says he contracted the typhoid fever from the effect of which he lost his eyesight. He was treated for some time in hospital No. 9, at Nashville, and is now in the asylum for the blind at Columbus Ohio. He claims to have lost all trace and knowledge of his commanding officers and comrades, as also of his papers. Beyond his own declaration there is no evidence of his enlistment as a teamster. The Adjutant-General reports that this man appears to have been a civil employé in the Quartermaster's Department. The Surgeon-General reports treatment in No. 9, general hospital, at Nashville, from October 31, 1863, to February 24, 1864, for intermittent fever, and transferred February 24, 1864. Entered general hospital No. 8, same place, February 23, 1864, with typhoid fever, and returned to duty May 8, 1864. This is the whole of the case if the letters written from the hospital are left out of consideration. If Hall was a civil employé, and not enlisted, as he claims to have been, he is clearly not entitled to a pension, and on that question the record is against him. In the opinion of the committee it would set a bad precedent to allow a pension to a civilian who for purposes of gain was attached to the Army. They recommend, therefore, that the bill do not pass.

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IN THE SENATE OF THE UNITED STATES.

JANUARY 24, 1873.—Ordered to be printed.

Mr. WRIGHT, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to whom was referred the petition of Marcus Walker, praying compensation, &c., beg leave to submit the following report:

Petitioner asks the passage of a bill giving the Court of Claims jurisdiction to adjudicate his claim for the proceeds of 99 bales of cotton (45,342 pounds, valued at \$27,205.20) taken on the 26th of April, 1863, at Franklin, Louisiana, giving, as a reason for not resorting to that tribunal before the bar of the statute applied, that he could not prepare the case for submission in time, after the same had been decided against him by the Secretary of War, where it had been pending and long delayed.

It appears, according to the averments of his petition, that he is and was a loyal citizen; that this cotton was taken by Lieutenant Dooley, acting post-quartermaster, in the name and under authority of the United States, shipped by him to Captain Dennett, at Brashear City, who, under instructions from Lieutenant-Colonel Chandler, assistant quartermaster, United States Army, forwarded the same to the chief quartermaster at New Orleans, and afterward, as far as petitioner is informed, it was sold by the agents of the Government, and the amount realized therefrom deposited in the Treasury thereof. He also says that his claim was presented to the Secretary of War, who decided against it, whereupon, &c.

The evidence as to loyalty we do not set out, for, assuming it to be sufficient, we should still have to inquire whether he makes out such a *prima-facie* case of loss of property as to entitle him to the relief asked.

Upon this report, the only evidence is found in the certificate of S. B. Halabred, colonel, chief quartermaster Department of the Gulf, under date of the 28th of October, 1865, which, so far as here material, is as follows: "From personal knowledge of the case and from reliable information supplied me by competent persons, I believe the claim to be a just one; that the said claim was some time ago presented to me for payment, but I did not pay it, feeling that my authority did not extend to its settlement. * * * I certify that I regard the claim as just."

This and no more is his case. It is so entirely wanting in every element of competent evidence that we are not prepared to say that it should go to the Court of Claims. It was rejected by the Secretary of War, and the reason given for not proceeding in time before the Court of Claims is entitled to but little credit. Years have elapsed since the alleged seizure, and the Government must reasonably be at not a little

disadvantage in contesting the claim, as compared with a hearing recently thereafter. Add the most material circumstance, that the certificate relied upon does not state facts, but conclusions; that the officer does not profess to know much, if anything, of the actual facts of the case; that he could state all he does, from a very little personal knowledge and more or less of information derived from others, and the case is certainly not one demanding the proposed action. Congress should not burden the court with additional cases, under what are urged as special equitable circumstances, unless it is fairly probable that the claimant has not himself been in default; also, that he has a case upon the evidence submitted which, *prima-facie*, entitles him to relief.

The committee ask to be discharged from the further consideration of the petition.

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IN THE SENATE OF THE UNITED STATES.

JANUARY 24, 1873.—Ordered to be printed.

Mr. HOWE, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to whom was referred the petition of Gurden Chapin, praying relief, &c., have considered the same and beg leave to bring in the following as their report:

The petitioner, under the form of a letter addressed to Congress, makes the following statement:

The undersigned, a retired officer of the United States Army, has the honor to inform you that he was appointed a cadet from the State of Virginia; that he graduated at West Point, in 1851. After passing through several grades of promotion, he was captain in the Seventh United States Infantry in 1861, and stationed at Fort Buchanan, Arizona Territory. While at this post the rebellion broke out, and he was offered high rank and position to leave the service and join the insurgents, every plea being used by his parents and other relatives in Virginia to induce him to leave the United States Army. He concluded to stand by the Government and the Union. All his property in Virginia was confiscated and he was declared an alien enemy.

In the month of July, 1861, he was stationed in command of the troops at Fort Buchanan, New Mexico, and was ordered by General E. R. S. Canby, commanding Department of New Mexico, to join forces with Captain J. N. Moore, First Dragoons, to abandon the post and proceed with Moore's forces to Fort Craig, New Mexico. Captain Moore, being senior in command and rank, assumed command of the whole. The post was abandoned in the latter part of July, 1861, and the troops put at once *en route* for Fort Craig, New Mexico.

While on the march, at a point called Cook's Springs, during the night of the 6th of August, 1861, Captain Moore received information of the surrender of Major Lynde's command at or near Fort Fillmore, New Mexico, just in our front, and believing himself cut off by the enemy, as a military necessity he ordered the destruction of all the public and private property in the command. The order was of course obeyed and I burned up, by his order, everything I had. My wife was with me, and as we had been keeping house at Fort Buchanan, all our household and kitchen furniture, books, music, beds, blankets, and all we had, were thrown into the fire. My wife was in a critical situation at the time, expecting confinement with her first child, and all her wardrobe was destroyed. Indeed everything we had for our use or comfort was taken from us and burned up. (My wife is the daughter of General Paul, an officer of the Army, both of whose eyes were shot out at Gettysburgh, and who is now living in Washington.)

The undersigned remained in the service during the war and received three brevets from the War Department for distinguished services. He is now retired for disease contracted in the war, and seeks relief for this property destroyed by an agent of the Government. Captain Moore's order was a verbal one and there is no record of it; a few weeks afterward he died at Fort Craig, New Mexico.

The undersigned, therefore, in view of these facts, corroborated by such documentary evidence as he can now get, most of the witnesses being killed or having died during the war, and which is herewith inclosed, and in view of the fact that he is infirm and not able to teach or work, respectfully prays Congress, in his behalf, for such relief as the honorable body may give him. My wife's clothing and jewelry alone were worth over \$2,500, and my household property, trunks, instruments, bedding, and kitchen and dining-room furniture were worth \$500. Your petitioner therefore prays for relief in the sum of \$3,000, or such other sum as Congress may see fit to give. To all of these facts I certify on honor.

Very respectfully, your obedient servant,

GURDEN CHAPIN,
Major United States Army, (retired.)

It is a satisfaction to know that where so many utterly failed in their duty to the Government, Major Chapin did not.

It was probably in the trust that he would prove equal to the behests of duty that the Government assumed the charge of his education, and, in 1851, confided to him his commission.

It is because he did do his duty that he is now receiving the salary of an officer, although retired from duty.

It is sad to know that he sacrificed his wife's clothes by his fidelity to duty. Yet it must be remembered that a great many loyal citizens made infinitely heavier sacrifices to the same sentiment for which they never have been and never can be compensated in this world. And besides, there is no adequate reason for believing that if the claimant had deserted his duty and joined the rebellion he would have fared any better than he did. It is therefore recommended that the committee be discharged from the further consideration of the petition.

IN THE SENATE OF THE UNITED STATES.

JANUARY 24, 1873.—Ordered to be printed.

Mr. HOWE, from the Committee on Claims, submitted the following

R E P O R T :

The Committee on Claims, to whom was referred the petition of Thomas F. Bowler, for relief, &c., have considered the same, and bring in the following as their report :

The petitioner represents that in 1858 he contracted with the Post-Office Department to carry the United States mail between Neosho, Missouri, and Albuquerque, New Mexico, for the term of four years, making monthly trips, for the sum of \$17,000 per annum ; that in 1859, by reason of deficient appropriations, the Department annulled the contract, and he prays for damages, which he estimates at \$61,879.

The prayer must be denied for two reasons :

1st. If the Government annulled the contract and the parties had not stipulated as to the measure of damages, the law would have given the claimant only the contract price, less the cost of making the monthly trips. There is no evidence before the committee from which that cost can be calculated.

2d. Although the contract is not in the case nor any certified copy of it, yet there is the form of a contract for service on that route, lacking only the signature of the parties. From that paper it is to be inferred that the contract contained the usual stipulation that the Government might annul the contract by paying one month's extra compensation.

It is not pretended that such compensation was not paid ; and if so, the Government has fully discharged its obligations to the contractor.

It is therefore recommended that the petition be indefinitely postponed.

IN THE SENATE OF THE UNITED STATES.

JANUARY 24, 1873.—Ordered to be printed.

Mr. SCOTT, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to whom was referred the petition of Calvin Bronson, praying that the tax on tobacco alleged by him to have been illegally collected may be refunded, have had the same under consideration, and submit the following report :

The petitioner claims to have refunded to him the sum of \$11,211 tax which he alleges has been illegally assessed and collected upon tobacco manufactured by him in the month of March, 1865.

Under the act of the 30th of June, 1864, smoking-tobacco and refuse known as fine-cut shorts paid a tax of 25 cents per pound, (13 Stat., p. 270.) The ninetieth section of that act (ib., p. 262) provided, among other things, "Every such person, company, or corporation shall keep in a book, in such manner and form as such commission may prescribe, an accurate account of * * * the quantity of tobacco, snuff, snuff-flour, or cigars of whatever description sold, consumed, or removed for consumption or sale, or removed from the place of manufacture; and he or they shall, on Wednesday of each week, furnish to the assistant assessor of the district a true and accurate copy of the entries in said account during the week ending on the preceding Saturday, which copy shall be verified by oath or affirmation, on receipt whereof an assessment of the duties due by said person, company, or corporation shall be immediately made and transmitted to the collector of the district, to whom said duties shall be paid within five days thereafter," &c.

The act of March 3, 1865, (13 Stat., p. 477) increased the duties on smoking-tobacco of all kinds to 35 cents per pound, and on shorts, under unenumerated classes, to 40 cents per pound, and provided that it should go into effect on and after the 1st April, 1865.

The claimant alleges that the tobacco manufactured by him during the month of March, 1865, was removed "from his factory to his warehouse, two or three squares away;" that he returned the same for taxation, and, when requested to do so by the collector, paid the taxes thereon at the rates prescribed by the act of June 30, 1864. He denies that any part of the tobacco so removed was subject to the tax imposed by the act of March 30, 1865, but having paid the tax under that act upon so much of it as was decided to be subject to it, he now asks to have it refunded.

The case has already been before the Commissioner of Internal Revenue, who is authorized by law to refund taxes illegally collected, and,

after hearing, he first decided favorably, but, upon the case going to the office of the Secretary of the Treasury, it was reviewed, and, upon reconsideration, he (the Commissioner) declined to allow the claim.

The argument made by the claimant's counsel places the case entirely upon the ground that tobacco was subject, under the act of June 30, 1864, to tax at the time of removal from the factory for sale or consumption, whether actually sold or not.

Without discussing this point, the brief made up in the Secretary's office, when returning the case for reconsideration by the Commissioner, takes the ground that the amount of tax paid upon this tobacco was part of a compromise entered into by the Government with Mr. Bronson, involving other transactions and claims, and that it would be improper to open up this question after suits had been dismissed in which forfeitures were claimed, to sustain which the United States district attorney alleges he has the necessary evidence, &c.

Upon looking at the papers we find that there were several other claims in controversy, and the increased tax was assessed only upon that portion of the tobacco embraced in the return for the last week in March which was not actually sold, the taxes upon which, under the law, could not have been paid until after the 1st of April, and upon which, although removed during that week, the tax was not actually paid until the 29th or 30th of April. True, he alleges he was willing to pay them weekly, but that the collector declined to receive them oftener than once a month. Even so, he could not have paid for the last week in March until after the 1st of April, and, as the tobacco was actually removed before that, and there is no evidence of an offer to pay upon removal, he does not strictly bring his case even within the rule contended for by his counsel.

Without considering this question, however, we turn to the inquiry whether this payment of the tax was upon a compromise. He alleges he paid it under protest. To an inquiry whether any protest was made at the time, the Commissioner of Internal Revenue returns the following reply:

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
Washington, January 6, 1872.

SIR: In reply to your verbal request of this morning, that an examination be made of the papers connected with the claim of Calvin Bronson, of Toledo, Ohio, for the refunding of the sum of \$11,211, tax on tobacco, paid October 11, 1865, under an arrangement with late Commissioner Orton, to see if any evidence could be found that the payment of the money to the collector was accompanied by any protest or notice of further contest on the part of Mr. Bronson, I have to inform you that such examination has been made, and nothing has been found, of date contemporaneous with the payment, which throws any light upon the point of your inquiry.

But, immediately after such payment, namely, on October 14, 1865, the attorneys of Mr. Bronson, in a communication to this office, speaks of the arrangement made with the Department through Revenue Agent Payn, as an "adjustment, and ask that instructions be sent to District Attorney Root, at Cleveland, for dismissal of the two suits then pending for forfeiture of Mr. Bronson's property; and within a few months thereafter the same attorneys speak of it as a "settlement," under which exemption is claimed from further apprehended trouble; and again, a month or two later, an affidavit was filed by Mr. Brown, the counsel of Mr. Bronson, who made the arrangement with Payn, asking for copies of the papers issued from this office in this matter, to be used by him in the defense of a suit then recently brought against Mr. Bronson, (believed to be a *qui tam* action, brought by one Lemmon,) which suit he swears is for the same matters "which had been examined, adjusted, and settled by the Commissioner of Internal Revenue," and claiming that, for his proper defense, copies of these papers are necessary.

And it is not until August, 1870, five years after this transaction, that Mr. Bronson, in an affidavit prepared for him by counsel in this city, declared that the money "was

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paid by deponent for the purpose of procuring release from seizure, in order that he might go on with his business," and denied that he had intended to make any compromise.

Very respectfully,

J. W. DOUGLASS,
Commissioner.

Hon. JOHN SCOTT,
United States Senator.

It is unnecessary to go further into the details of the case. Finding that the adjustment embraced a claim for \$3,445.55, arising out of a defective return of his income of 1862; a claim of \$3,114.53, upon defective monthly return in 1862; a claim for increased duties, under the act of 1864, and also a claim for the taxes now sought to be refunded, and that all of these claims and litigation, growing out of some of them then pending, were adjusted under nine distinct heads of agreement, and that the Department with which this settlement was made treated it as a compromise, the committee cannot see enough to justify them in treating it otherwise, and ask to be discharged from the further consideration of the subject.

IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1873.—Ordered to be printed.

Mr. PRATT, from the Committee on Claims, made the following

R E P O R T :

[To accompany bill S. 1452.]

The Committee on Claims, to whom was referred the memorial of Jesse Warren and Joseph A. Moore, of Nashville, Tennessee, praying compensation for a building destroyed by the Army, report :

The memorialists are carpenters and house-builders, citizens of Nashville. They were loyal men during the war. On the 4th day of October, 1859, they entered into a contract with one Henry W. Hays, to build him a brick dwelling-house, on a lot in Boyd's addition to the city, for the price of \$19,000, according to certain plans and specifications agreed on. They were to furnish at their own proper cost, charge, and risk, all the materials, and perform all the labor; and it was expressly agreed that Hays should be at no risk or loss if the building should be injured or destroyed by fire, or otherwise, before its completion and delivery of the keys. They had proceeded to construct a brick dwelling under this contract, about one mile from the city, on the Harding turnpike. The brick-work, roofing, joist, and frame-work were finished, when, as is alleged by them, the Seventeenth Kentucky Infantry, about the first of March, 1863, commenced hauling away the lumber from the building, and from time to time, until the fall of 1864, portions of the building were taken by United States troops in its vicinity, until its destruction was complete, the materials being taken off and appropriated to the uses of the Army. It is alleged that large bodies of troops were in camp in the vicinity of Nashville from the spring of 1862 until the close of the war, and they required all the material in their reach to make them comfortable. The walls of the building were torn down, and the bricks used for building chimneys, &c., for the comfort of the soldiers, the other material being appropriated to the same purpose.

The memorialists had also built, at considerable expense, a stone foundation for another building on the Hillsborough turnpike, near the city; and they complain that, during the months of June and July, 1864, the stone was carried away by the United States troops, policing the grounds of Cumberland Hospital, and used for the floors of tents occupied by surgeons of the hospital, to the extent of 421 perches, of the value of \$3,368, and for other purposes.

They allege, and it is proved, that in pursuance of Field Orders No. 107, headquarters Department of the Cumberland, a board of assessors convened at Nashville, Tennessee, for the purpose of assessing their damages on account of the appropriation and use of their property as above stated; and that this board, on the 26th of June, 1865, awarded

them \$10,282.55 for their damages in the premises; that their claim, with the proceedings of this board, was filed for payment in the War Department, but the Attorney-General gave his opinion before their case was decided, that the War Department had no authority to settle and pay any claims in the State of Tennessee, except such as were for quartermaster or commissary stores, and hence their appeal to Congress.

They further say that in assessing their damages at \$10,282.55, the board of assessors awarded \$6,914.55 for the building first named, on the Harding turnpike, and \$3,368 for the stone foundation on the Hillsborough turnpike, but that, in point of fact, they have expended upward of \$15,000 on the building first named.

The following is the decision of the board of assessors:

The board, having maturely deliberated upon the evidence adduced, is of opinion that the damages sustained to the property of Messrs. Warren and Moore was done by United States troops, and do hereby assess the damages as set forth in the following bill, viz:

Damages of rock-work, 7 perches of range-work.....	\$70 00	
85 feet 6 inches of water-table.....	102 06	
three mounted braces, at \$40.....	120 00	
one stone-mounted chimney-cap.....	40 00	
damage to water-table of porch-front and flank-wall.....	120 00	
one tier-cut quoin-stone.....	150 00	
		\$602 60
Damages of brick-work, 107,250 brick, at \$25 per thousand.....	2,681 25	
damages to chimneys.....	150 00	
		2,831 25
Damages of tin-work, seventeen squares of tin roofing, at \$14....	238 00	
four tin water-conductors, at \$15.....	60 00	
		298 00
Damages of carpenters' work, 71 squares 67 feet of joists, at \$10	716 70	
100 feet joice-cornice, at \$8.....	800 00	
four front window-frames.....	300 00	
three mullion window-frames....	240 00	
thirty plain window-frames, at \$18	540 00	
six door-frames, at \$15.....	90 00	
lintels for doors and windows....	200 00	
twelve ventilators for basements, at \$8.....	96 00	
painting and sanding.....	200 00	
		3,182 70
Damages of stone foundation of house on Hillsborough pike, 421 perches of cut and rubble-stonework, at \$8 perch.....		3,368 00
Total		10,282 55

The board would respectfully state that, from all we can learn respecting the claimants, Messrs. Warren and Moore, we find that they have always been loyal men, and have been uncompromising Union men during the past rebellion.

C. C. MCNEELY,

Captain, and President of Board.

J. G. MACADAMS,

Lieutenant Sixth Kentucky Government Volunteers.

W. S. STACY,

Lieutenant Seventy-eighth Pennsylvania Veteran Volunteer Infantry.

NASHVILLE, TENNESSEE, June 26, 1865.

As to the brick building, the evidence shows that it was destroyed piecemeal by the soldiers, at various times, belonging to different commands, encamped in the neighborhood, and the materials were carried

away—the joists and frame-work being used for fuel and in fixing up their tents, and the bricks to construct chimneys for heating and other purposes. This occurred at all seasons of the year, and in winter the materials used contributed greatly to the soldiers' comfort.

It is also shown that Warren and Moore did all in their power to save the building from destruction, applying repeatedly to the officers in command for guards and protection, which were afforded only occasionally and temporarily. In order to save their property from destruction they even offered the building free of rent to the Government for such use as it might see fit to apply it to.

There is the evidence of a single witness that in the fall of 1864 some lewd women were in the building, and one Colonel Blackburn ordered a squad of men to dislodge them or tear the building down. Some damage was done to the building in the execution of this order.

The material composing the building and the foundation was so scattered and broken as to become practically worthless.

Although the ground upon which the building was erected belonged to Mr. Hays, yet according to the contract he was to be at no risk or loss before its completion, and hence the loss in this case falls exclusively upon the contractors, Warren and Moore.

The facts as to the loss and the manner of it, and that the memorialists in no manner contributed to it, and are not culpable in any way, are established by the engineer in charge of the field hospital, the superintendent of mechanics in the quartermaster's department, by the assistant quartermaster on duty at Nashville from January, 1863, to September, 1866, and other officers of the Army—especially Charles H. Gauthier, a staff officer, and for three years chief clerk at the headquarters of General George H. Thomas, who gives a lively account of the appropriation by the soldiers from time to time, as their necessities required, of the materials of the building in order to keep themselves warm, making floors and chimneys for their tents, to protect themselves from the inclemency of the weather and keep off "the shakes." According to his testimony an impression prevailed among the soldiers that the building belonged to General Zollicoffer.

There seems no reason to doubt that the brick and stone used did contribute to the comfort and health of the soldiers, in affording them shelter and warmth. The materials were taken and used for this purpose, and the plea of the soldier is summed up by Colonel Gauthier in these words :

Had I been forced to lie out upon the bleak hill-side (just where these houses lay) with the few means of comfort the Government provided the regiments I saw encamped, with the rain pouring through their flimsy dog-tents, methinks I should have gone in with the rest, (while the colonel was quietly sleeping,) snatched a few boards, foraged a few bricks, and the next day built me a floor to lie upon, instead of the mud, and out of the brick erected a nice little oven, out of which might emerge heat and more wholesome bread, thereby giving me much rude comfort, and no doubt saving Uncle Sam a vast amount of quinine, camphor-pills, and "sich like" trash.

The committee have quoted from the testimony of this gentleman because, though so long connected with the headquarters of General Thomas, he had served in the ranks as a common private, and knew the privations, wants, and feelings of the common soldier.

When this case was first before the committee, it did not appear that Warren and Moore had brought the spoliation of their property to the notice of the officers in command at that post, and we thought they had not been sufficiently diligent and attentive to their interests.

The additional testimony produced entirely removes that objection.

It is made to appear that they did all in their power to arrest the spoliation.

This property was not captured or abandoned in the sense of the law. Had it been the claimants could have had redress in the Court of Claims, for they were clearly loyal men. And yet the Government has received benefit from the use made of it in the comfort of the troops. If it was proper they should have floors to their tents and chimneys, the materials must have been purchased. It makes no difference in principle whether they were purchased or appropriated, if it can be shown that a proper use was made of them. Suppose the quartermaster failed to supply the regiment with fuel for warmth and cooking, and because of this failure the men laid hands on the wood-piles of loyal citizens, and thus supplied their needs, should not the owners be compensated? If so, the committee can see no reason why Warren and Moore should not be paid for the value of the materials taken from them. To be sure, this would fall far short of their actual loss, but it would be a payment for what may properly be regarded as quartermaster's stores.

From the evidence we might infer a greater loss than that assessed by the board convened by General Thomas, with instructions to examine and report upon the case. That amount, it will be remembered, was \$10,282.55. The members of the committee entertaining conflicting views—some being of opinion that this is not a proper case for relief on the facts stated, but a majority being in favor of partial relief, have agreed upon the sum of \$5,000, and recommend the passage of the accompanying bill.

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IN THE SENATE OF THE UNITED STATES.

JANUARY 27, 1873.—Ordered to be printed.

Mr. PRATT, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to whom was referred the petition of Charles D. Arter, praying compensation for use and destruction of property at Cairo, Illinois, submit the following report:

There is nothing before us except a petition. By that it appears that Mr. Arter was in possession of a tract of land in Cairo, leased by him from the city, upon which he had erected at great cost a grist-mill, distillery, stock-pens, &c.; that in the spring of 1861 the military authorities of the United States took possession of the ground for the purpose of erecting a fort thereon, and tore down and removed the petitioner's buildings, fixtures, and machinery. He avers that his damages were \$50,000, of which he has been paid the sum of \$10,000 only.

The Secretary of War certifies there is no information in his Department on the subject. The memorialist furnishes no proof except his own affidavit. We do not feel inclined to pass judgment upon the case without further evidence, and recommend the petitioner be allowed to withdraw his petition.

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IN THE SENATE OF THE UNITED STATES.

JANUARY 28, 1873.—Ordered to be printed.

Mr. FERRY, of Connecticut, submitted the following

REPORT:

[To accompany bill S. 1478.]

The Committee on Patents, to whom was referred the petition of William D. Ludlow, for relief, respectfully report:

That said Ludlow is the owner of letters-patent granted February 16, 1858, number 19,373; that on the approach of the expiration of said patent he intended and proposed to apply to the Commissioner of Patents for extension thereof, but through sickness and misapprehension of facts was prevented from doing so till too late to give the necessary notice; that the committee think that he is entitled to the relief sought, and recommend the passage of the accompanying bill.

IN THE SENATE OF THE UNITED STATES.

JANUARY 28, 1873.—Ordered to be printed.

Mr. PRATT, from the Committee on Pensions, submitted the following

R E P O R T :

The Committee on Pensions, to whom was referred the petition of Samuel Birdsall, jr., praying payment of arrearages of pension, submit the following report :

Beside the petition, there is nothing in the way of papers in this case. Even *that* is not sworn to. The claimant's pension, \$15 per month, dates from May 18, 1869; he seeks its extension back to June 12, 1863, the date of his discharge from the service. That discharge was because of disability incurred in the line of duty. He was a captain in a Wisconsin regiment. He omitted to make application for a pension until May 18, 1869, in the hope his disease would yield to time and medical treatment, and from a sense of delicacy at being a burden upon the Government, when his continued disability to earn a livelihood compelled him to take that step. He was prepared to take it as early as April 10, 1867, but prostration, long continued, prevented, until five years had elapsed from the period of his discharge.

He states that he has been under medical treatment ever since his discharge in 1863, and that since filing his application for a pension he has been an invalid indoors for twenty-two months; that his pension is his sole income, and is insufficient to secure even necessary medical attendance. He urges in eloquent terms forcible reasons why the rule forbidding arrears of pension, when the application was delayed beyond five years, in cases like his, should be relaxed.

As said before, this is a mere petition, and we have no means of knowing whether its statements are true. If so, the case is a hard one, but does not furnish sufficient grounds why we should make his case an exception. The law was before him. He knew his rights, but did not choose to avail himself of them. There was nothing, by his own statement, to prevent his application within the time limited. It could have been made from a sick room. He dwelt in a large city, where attorneys were near at hand. Seeing this, the case is without merit, unless Congress is ready to repeal the limitation referred to.

THE HOUSE OF COMMONS

THE HOUSE OF COMMONS
JANUARY 1881

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IN THE SENATE OF THE UNITED STATES.

JANUARY 28, 1873.—Ordered to be printed.

Mr. AMES, from the Committee on Finance, submitted the following

REPORT:

The Committee on Finance, to whom was referred the "Petition of De Witt C. Chipman, praying the payment of moneys withheld from him to cover uncollected revenue tax during his incumbency of office," have had the same under consideration, and submit the following report:

The papers of the petitioner were referred to the Commissioner of Internal Revenue for such information as might be in the possession of his Department, and the following letter was received in reply:

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, January 25, 1873.

SIR: I return herewith the letter of De Witt C. Chipman, addressed to Senator Morton, inclosing his petition for additional compensation for services as late collector of internal revenue for the eleventh collection district of Indiana.

In regard to late Collector Chipman's petition, I would say that, upon a final settlement of his account he was granted an allowance that, added to the salary and commissions he had previously received, covered his office expenses and afforded him personal compensation of over \$2,500 per annum during his entire period of service.

This allowance was made with the understanding that no further claim of any kind would be presented by Mr. Chipman for services rendered as late collector, and was regarded by this office as a final settlement of his account.

The statements contained in late Collector Chipman's petition should not be considered, for the reason that they are designed and calculated to mislead those not familiar with the adjustment of internal revenue collectors' accounts, and as to the correctness of some of them I submit the following:

He says that "The amount of his compensation applied by the Department on his account at different times is the sum of \$14,854.17, thereby depriving him of any remuneration for four years of official and three years of unofficial services."

The facts in regard to which are, that if so much of the compensation found due him was applied to the balance due on his revenue account, it was done because he had appropriated this sum from his collections.

He further says, "That he paid out \$12,000 for expenses of office, clerks, rent, fuel, lights, and to sixteen deputies, and other incidental expenses, which, with the matters already referred to, show how he was deprived of any compensation for his entire official term."

This is refuted by the statement I have already made, that in the final settlement of his account he was allowed his entire office expenses, \$12,316.97, and personal compensation of over \$2,500 per annum. It is true that he may have expended an inconsiderable sum after his retirement from office, in preparing claims for the abatement of his uncollectable taxes, which was not covered by the allowance specifically, but which was fully considered in determining the amount he should be allowed for personal compensation. The amount thus expended he states in his petition as \$1,000.

Very respectfully,

J. W. DOUGLASS,
Commissioner.

Hon. A. AMES,
United States Senator, Washington, D. C.

The committee report adversely on this petition.

REPORT

Presented to the Committee on Finance, United States Senate

REPORT

The Committee on Finance, United States Senate, has the honor to report to the Senate the results of its investigation into the operations of the United States Mint, during the year ending June 30, 1891. The report is divided into two parts: the first part contains a general statement of the operations of the Mint, and the second part contains a detailed statement of the operations of the Mint, as conducted by the various branches of the Mint.

The first part of the report contains a general statement of the operations of the Mint, during the year ending June 30, 1891. It shows that the Mint has been successful in carrying out its duties, and that it has been able to meet the demands of the public for coinage. It also shows that the Mint has been able to maintain its operations at a low cost, and that it has been able to keep its accounts in order.

The second part of the report contains a detailed statement of the operations of the Mint, as conducted by the various branches of the Mint. It shows that the operations of the Mint have been carried out in a systematic and efficient manner, and that the various branches of the Mint have been able to perform their duties with accuracy and promptness. It also shows that the Mint has been able to maintain its operations at a low cost, and that it has been able to keep its accounts in order.

J. W. DOLAN, Chairman

The committee report adversely on this bill.

IN THE SENATE OF THE UNITED STATES.

JANUARY 28, 1873.—Ordered to be printed.

Mr. LOGAN submitted the following

REPORT:

[To accompany bill H. R. 2979.]

The Committee on Military Affairs, to whom was referred the petition of Robert K. Enbody, praying for relief, having had the same under consideration, respectfully submit the following report :

Claimant was enlisted when sixteen years of age, as a private soldier in the One hundred and eighteenth Regiment Pennsylvania Volunteers, on the 17th day of November, 1863, but, as he makes affidavit, with a true statement of his age at the time to the recruiting officer.

On account of his minority his parents made several attempts to have him discharged, but without success.

He appears to have been a faithful soldier, serving in all the engagements of his regiment until June 2, 1864, when, with the rest of the picket line, he was captured by the enemy at Cold Harbor.

He was held a prisoner for some seven months, and when paroled was so debilitated as to require hospital treatment. On May 1, 1865, he was discharged by special order of the War Department, which, under paragraph 1371, Revised Army Regulations 1863, withheld all pay and allowances due at the date of discharge. If fraud, however, existed in his enlistment, it appears to have been not upon his part, but upon that of the recruiting officer.

Claimant fails to show any reason for refunding to him the sum of \$150 erroneously paid by his father to the collector of internal revenue.

The Committee on Military Affairs therefore report the accompanying bill, limited to the real earnings of this soldier, and recommend its passage.

IN THE SENATE OF THE UNITED STATES.

JANUARY 28, 1873.—Ordered to be printed.

Mr. LOGAN submitted the following

REPORT:

[To accompany bill S. 46.]

The Committee on Military Affairs, to whom was referred House resolution No. 23, to enable the Secretary of War to pay the expenses incurred in suppressing the Indian hostilities in the Territory of Montana, in the year 1867, having had the same under consideration, respectfully submit the following report:

The report submitted to the House May 24, 1872, by Mr. Donnan, from the Committee on Military Affairs, is very full, giving a clear statement of the evidence and points involved in the case, showing the examination by the committee of the House was very thorough.

It is also accompanied by the report of General James A. Hardie, Inspector-General Military Division of the Missouri, who was appointed to make an examination, and report as to the amounts justly due on these claims. An examination of this report shows that General Hardie has performed this duty with great care and thoroughness, and an evident desire to do justice to all those presenting proper claims sustained by satisfactory evidence. But in the performance of this important duty he has been compelled, by a sense of justice to the Government, to reject quite a number of claims, and to make a considerable deduction from others. In a number of cases the evidence showed that the articles were charged largely in excess of the usual prices; this excess ranging from 20 to over 100 per cent.

The whole amount of awards up to the time of General Hardie's reconstructed report, (the original having been destroyed during the Chicago fire,) May 11, 1872, was \$456,504.21, as against \$821,886.21 demanded. Vouchers to the amount of \$50,868.25 have not been reported upon for want of information. It is stated in the House report that vouchers amounting to nearly \$7,000 of this last item have come in since March 11, 1872, and have been deposited with other papers, accompanied by a supplemental report of General Hardie. (This supplemental report does not appear among the papers on file.) If the report of General Hardie is taken as the basis of settlement, and the whole of the last-mentioned amount should be established, the total amount will then be \$507,372.46. Accompanying the report of the House committee is a list of all the claims presented, with the amount awarded on each, where an award was made.

The first important question that arises in the investigation of these

claims—for they are all based upon the same general fact—is whether the Government, in equity and justice, is under obligation to pay any of these expenses.

Section 10 of the act of July 15, 1870, is as follows:

SEC. 10. That the Secretary of War be, and he is hereby, authorized and required to ascertain, or cause to be ascertained, the amount of expense necessarily incurred by the territorial authorities of Montana for arms and supplies of the volunteer forces called out to suppress Indian hostilities in the Territory of Montana in the year 1867, and report to Congress, at the next session, the names of persons entitled to relief, together with a statement of the facts and sums upon which such report may be based.

It is evident that this section only authorized the ascertaining of the amount of the necessary expenses incurred for arms and supplies and the names of persons entitled to relief, the object thereof evidently being to obtain a basis for further action, and to have some fixed amount in case Congress should decide to make an appropriation. It therefore furnishes no grounds for a claim against the Government.

The obligation of the Government to pay these claims, if any exists, must depend upon the authority granted by the General Government to the civil authorities of Montana or the necessity for immediate action occasioned by the imminent danger of Indian hostilities.

After examining the facts bearing upon this important point, we are inclined to concur in the decision of the House committee—

That there was, at least, such a recognition of the calling out and subsisting of troops as to justify private parties in furnishing the absolutely necessary supplies, in the full belief that Government intended to pay for the same.

Yet we are of opinion that the action of the authorities was hasty, and that great carelessness, and even recklessness, was manifested in obtaining supplies and arms, and that only fair and reasonable prices should be paid for such as were absolutely necessary.

The second important question is, how shall the amounts of these proper claims be ascertained? As before stated, we believe the 10th section of the act of July 15, 1870, was intended to accomplish this step in the progress of settlement. We therefore are of the opinion that the report of General Hardie forms the best possible basis of settlement now to be obtained. It is true that many of the papers in the possession of General Hardie, as well as his original report, were destroyed in the Chicago fire; yet, in a great majority of cases, the original vouchers, after being inspected by General Hardie, were returned to the claimants. A list of the claims, memoranda of many awards, and a schedule of prices were saved. General Hardie in person has been before this committee, and, from the statements made by him, and what is presented in his report and the appendix to the House report, we are decidedly of the opinion that his awards, and the facts in his report, constitute the only safe basis of settlement which can now be adopted.

IN THE SENATE OF THE UNITED STATES.

JANUARY 28, 1873.—Ordered to be printed.

Mr. LOGAN submitted the following

REPORT:

[To accompany bill H. R. 693.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 693) for the relief of Charles Trichler, report as follows :

The testimony in the case of Charles Trichler shows that he was a member of the Eighty-fourth Battalion of the Ohio National Guards; that his company and battalion tendered, through the governor of Ohio, their services to the United States for one hundred days, and under an order went to Gallipolis, Ohio, to be mustered in; that said Charles Trichler was rejected by United States Surgeon Gould on account of myopia, (near-sightedness;) certificate of discharge and rejection, signed by Captain Field, Colonel McCreight, and said Surgeon Gould, on file.

It further appears that this man was subsequently drafted, examined, and passed by D. Coleman, examining-surgeon of the board of enrollment, and paid the commutation of \$300. Said Surgeon Coleman swears that he is now satisfied said Charles Trichler ought not to have been held as a drafted man, being the worst case of near-sightedness he ever saw. Said Charles Trichler swears that he cannot tell a man from a woman over ten to twenty yards, and in many instances would not see them at all, unless moving; cannot tell a man from a horse over five to fifteen rods—much depends upon the weather, clear or cloudy—and that his sight is the same it always has been. H. H. Pemberton and James Fritz have known said Trichler many years, and testify to the same facts in regard to vision. Dr. N. Richards swears that he has been the family physician of said Trichler for eighteen years; that in his opinion he cannot tell a man from a woman over ten to twenty yards. Lieutenant Parker and Private Campbell swear they were members of the same battalion, and were present when Surgeon Gould rejected him, and that they heard Surgeon Gould say he (Trichler) was nearly blind.

THE HISTORY OF THE UNITED STATES

REPORT

of the

The following is a list of the names of the persons who have been appointed to the various offices of the United States, and who have been sworn into office, in accordance with the provisions of the Constitution and the laws of the United States.

IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 2508.]

The Committee on Pensions, to whom was referred bill H. R. 2508, granting a pension to Eliza J. Fracker, submit the following report :

It sufficiently appears from the evidence that Mrs. Fracker, the beneficiary of this bill, adopted as her son James A. Markland on the death of his natural mother. The records of the Adjutant-General's office show that James Markland, aged nineteen, was mustered into service as first lieutenant, Company K, Second Ohio Volunteers, on July 1, 1846, to serve twelve months. On the rolls of his company from August 31 to December 31, 1846, he is mustered for pay as First Lieutenant James A. Markland, present for duty ; station, Camargo, Mexico. On February 28, 1847, the company was stationed at Monterey, but Markland was reported on detached service "commanding escort for provision train to Camargo." He was mustered out of service as first lieutenant with his company at New Orleans, June 22, 1847.

There is no evidence on the rolls of any disability incurred by him while in the service.

So much for the testimony of the Adjutant-General.

The testimony satisfactorily proves that while in the service in Mexico he contracted the chronic diarrhea, from which he suffered at intervals until the period of his death, which occurred in 1860.

It also appears that he contributed to the support of his adopted mother, and at his death left her his property, worth about \$400, and that he always regarded and treated Mrs. Fracker as his mother. She had no child of her own, and is now sixty-six years of age and without means of support. She has been a widow since the year 1844, and her good character and industrious habits are well established.

The only objection against this claim arises from the fact that Lieutenant Markland's military record shows no disability, and that he survived the Mexican war twelve years. Still the fact is well established by medical and unprofessional witnesses that, in point of fact, he died of chronic diarrhea, and that he was subject to attacks of this disease at different periods after his discharge. Two officers of his company speak positively to the fact of his having this complaint at Camargo.

While the case is not entirely free from doubt as to the origin of the disease of which he died so many years back, yet the committee feel inclined to and do recommend the passage of the House bill.

IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 2524.]

The Committee on Pensions, to whom was referred bill H. R. 2524, giving a pension to Flora D. McKay, submit the following report :

It is proved that John McKay, of whom the said Flora is the widow, was a soldier in the company and regiment stated in the bill, having served from the 27th day of June, 1861, until the 15th of July, 1863, when he was discharged on surgeon's certificate of disability, and returned home. He died on the — day of June, 1866, nearly three years after his discharge. The surgeon's certificate shows that his disability consisted of opacity of cornea—both eyes, contracted since enlistment; that his disability was two-thirds, and that he was unfit for Invalid Corps.

Sergeant McKay applied soon after his discharge, indeed, on the same day, for an invalid pension. In his declaration he claims that he contracted a disease of the eyes, which first began to appear at Yorktown, Virginia, in April, 1862, and that it was brought on, as he thinks, by a cold which settled in them, and which increased to such extent that he had not done active duty since December, 1862. He confesses that none of his commanding officers knew anything of his disease, and he does not pretend that up to the time of his application he was otherwise disabled. He produced no testimony in support of his disability except the certificate of an examining surgeon and a first corporal in the regiment. The former describes the nature of the eye disease, and expresses his opinion it will improve within a year; the latter says the soldier was discharged on account of sickness and weakness of sight.

The claim was rejected.

In April, 1868, the widow made her appeal to the same office, and her claim was that her husband died of consumption, the seeds of which were planted during the peninsular campaign.

There was no evidence which tended to support this theory except the fact that her husband was a sound man when he entered the service, and the testimony of the family physician. True, another witness speaks of his having had the chills, the camp fever, and inflammation of the eyes while in the service. Still, though a physician by education, he does not swear that his death was the result of these. But the family physician is more pointed. He swears that when McKay returned from the Army he was much debilitated, and soon afterward was seized of

hemorrhage of the lungs, which terminated in consumption. He says: "Judging from my previous knowledge of the man, and from his condition when he returned from the Army in 1863, I am of opinion that he contracted the disease which led to his death, while in the United States service. I do not think it possible the disease could have been in his system when he enlisted in June, 1861."

But still another witness, who was first lieutenant of the company when it was organized, wrote to the director of the sanitary commission, at Washington, in respect to McKay, as late as the 24th of October, 1863, as follows:

I am of opinion he had weak eyes when he enlisted, but it did not interfere with him while in the line of his duty, and he seldom complained unless we had a severe campaign or a long march.

Here, it will be observed, his officer makes no reference to any other ailment than weak eyes. It should be added that he pays a compliment to the good soldierly qualities of McKay, who was exposed to the hardships of the campaign in the peninsula.

The application of Mrs. McKay was rejected at the Pension-Office in December, 1868, and she immediately made her appeal to Congress.

Two doubts against the validity of this claim occur:

1. Because in July, 1863, when the soldier made his application, he founded his claim to a pension solely on the ground of impaired eyesight. He made no reference to any other disability.

2. Nearly five years elapsed after her husband's death before Mrs. McKay made her application, claiming that her husband died in consequence of disease contracted while in the service of the United States. This delay is unexplained.

Passing over these doubts, we encounter the decision of the Pension-Office, where all the evidence submitted to us was before the medical experts there. We are asked to overrule their decision. It was really the only point in the case, whether the evidence satisfactorily showed that the consumption of which McKay died was in consequence of the injuries his system received while in the service. With facilities for professional aid in solving this question which the committee have not, the Commissioner of Pensions has decided adversely. Shall we set up our opinion against his, backed by his medical experts?

We think not, and recommend that the bill do not pass.



IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1873.—Ordered to be printed.

Mr. SAULSBURY submitted the following

REPORT:

[To accompany bill H. R. 2420.]

The committee to whom was referred House bill 2420, granting a pension to Margaret A. Renshaw, submit the following report:

The evidence contained in the papers accompanying the bill shows that Margaret A. Renshaw was the mother of Alexander D. Renshaw, who enlisted at an early age in the naval service, and while in said service was taken prisoner and confined in Libby Prison at Andersonville, Charleston, and Macon for a period of fifteen months, and was released and returned home in 1865. He subsequently entered the revenue service, and died of yellow fever in September 1867, at Quarantine Station, in Louisiana, in the twentieth year of his age.

Mrs. Renshaw claims a pension on the ground that her son was her chief dependence for a support, and that the disease of which he died, although not contracted in the service, was superinduced by the injury to his general health, and the impaired condition of his system resulting from the deprivations and sufferings experienced from his confinement in prison, and upon the further ground that her son was afflicted with hernia, contracted in the naval service.

The claim of dependence is fully established by proof showing various and liberal remittances of the son to his mother from his earnings while in service, and affectionate letters recognizing his duty to assist in her support; satisfactory evidence is also contained in the papers that the son was afflicted with hernia, for which he was treated at the naval hospital, New York, and that said disability was incurred on board a naval vessel in 1862.

The question remaining to be considered is whether the disease of which he died was superinduced by impaired condition of his health and constitutional vigor as the result of his long confinement in Southern prisons, and the deprivations there experienced. Upon this point, Dr. Duhamel, of Washington, testifies that he attended him after his return home from the South, and that he "was much enfeebled in health and his blood diseased from malarial influences and privations which he had experienced as a prisoner of war," and further says that he was not surprised to hear of his death by yellow fever, as he considered him a fit subject for that disease from the condition of his system when he left home. Dr. W. M. Wiser, assistant surgeon United States Army at New Orleans, certifies that he "prescribed for Alexander D. Renshaw, at

different times, since he was released from rebel prisons in 1865, until near the time he died of yellow fever, made fatal, no doubt, by his being compelled to subsist while in confinement on unwholesome food and water," and adds that, from his experience in the treatment of yellow fever and from written communications he had had with the surgeon at the quarantine hospital when Renshaw died, if he been free from the maladies referred to he might have recovered from yellow fever. He was the only one on the vessel that died from that disease. This evidence is conclusive of the enfeebled and debilitated condition of Renshaw as a result of his long confinement in Southern prisons, and that he had not fully recovered therefrom when, or near the time, he was attacked with yellow fever, and warrants the conclusion that his death was most probably the result of the impaired condition of his health resulting from his service and imprisonment. They recommend the passage of the bill.

IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1873.—Ordered to be printed.

Mr. HAMILTON, of Texas, submitted the following

REPORT:

[To accompany bill H. R. 2470.]

The Committee on Pensions, to whom was referred House bill No. 2470, granting a pension to Robert H. Brown, late assistant surgeon Twenty-fifth Regiment Illinois Volunteers, have had the same under consideration, and find the evidence fully set out in the report of the House Committee on Invalid Pensions, which is concurred in, and the passage of the bill recommended.

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IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1873.—Ordered to be printed.

Mr. SAULSBURY submitted the following

REPORT :

[To accompany bill H. R. 2556.]

The Committee on Pensions, to whom was referred House bill 2556, granting a pension to Jane Thompson and Margaret Thompson, minor children of John Thompson, report :

It appears from the papers in this case that John Thompson was a private in Company G, Forty-fifth United States Infantry, and was the father of the said Jane Thompson and Margaret Thompson. That while stationed near Nashville, Tennessee, he went to that city for the purpose of sending home some money by express, and was severely attacked and beaten by some person unknown, and was admitted into the hospital, and soon after died. The cause of his death is stated by a lieutenant to have been the injury he received in the assault upon him ; but the Surgeon-General states he is reported to have died from pneumonia. The claim was rejected by the Department, on the ground that the cause of his death was not received in the service, and while in the line of his duty. The evidence shows that he had permission to go to Nashville to send home money, and on the night before his admission to the hospital had been drinking, and was much exposed to cold. His absence from his post was by permission, and for a laudable purpose, and only for a short period of time ; and the committee are of opinion that the disease of which he died was the result of the assault upon him and the injury he received, rather than the exposure in that latitude in the month of November ; although, doubtless, the exposure and indulgence in drinking may have had their effect in aggravating the injury and the disease consequent thereon, and recommend the passage of the bill.

IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1873.—Ordered to be printed

Mr. HAMILTON, of Texas, submitted the following

REPORT:

[To accompany bill H. R. 2468.]

The Committee on Pensions, to whom was referred House bill No. 2468, granting a pension to Samuel B. Davis, have had the same under consideration, and report as follows:

Samuel B. Davis, of the town of Newport, Vermillion County, Indiana, was enrolled on the 11th July, 1861, in Company C, Eighteenth Regiment Indiana Infantry Volunteers, to serve for three years, and was discharged at Saint Louis, Missouri, on the 18th December, 1862, upon surgeon's certificate of disability. He was suffering from "chronic hepatization" of the middle and lower lobes of right lung—the surgeon remarking, "no case for pension."

Applicant states that, when near Humansville, Missouri, on a forced march, in the line of duty, on or about the 20th November, 1861, he was attacked by a virulent form of "measles," and was in hospital from that time until he was discharged. That he was confined to his bed for more than three months after his discharge and arrival home. That as soon as able to go about he applied for and obtained a pension, in consequence of his disease having settled on his lungs, as stated in his discharge; and that afterward, the disease having changed its location from his lungs to his left leg and right arm, his pension was stopped about the 5th March, 1866. He states that since December, 1863, he has been unable to go about, except on crutches.

Dr. Griffin, of the same town and county, testifies that the applicant is seriously disabled in his left leg and right arm. His disability is thus described 13th February, 187—:

His left leg is perished away till it is only about two-thirds its proper or natural size; also the ankle-joint is stiff and has not the motion proper to said joint. Also, the right arm is stiff in the elbow-joint, not being capable of over one-half flexion. He is compelled to go on crutches.

The doctor's information was obtained from personal examination at the date above stated. The doctor further states that he has no absolute knowledge of the manner in which, or the cause by which said disability occurred, but from general report and current opinion in the town and neighborhood, he has no doubt whatever that it was produced as stated by the applicant, *i. e.*, that his lungs became diseased from the attack of "measles," producing "chronic hepatization" thereof, and that

his lungs subsequently recovered, but the disease afterward settled in his right arm and left leg. The testimony of three or four other reputable physicians of the same place, also acquainted with the petitioner, from personal examination, fully concur in the statement made by Dr. Griffin. None of them, however, seem able to state how the disability was contracted, except upon the statement of the applicant and general rumor. They leave it to be inferred, however, that the stiffness and atrophy of the limbs, which constitutes the present disability of the applicant, is one of the many forms of disease which follow "measles," but it would be far more satisfactory to have affirmative declarations from competent physicians. The committee cannot be expected to arrive at correct conclusions upon such matters without medical advice, and the Commissioner of Pensions, in canceling the former pension granted to the applicant, seems to negative the idea that the present disability under which he labors has any necessary connection with the one for which he was discharged from the service.

Many of petitioner's neighbors, some of whom were with him in the service, and all the others have known him since his return from the Army, in a petition in his behalf state that he was confined to his bed for some time after his return home, and that when he did become able to go about he was compelled, and has ever since been compelled, to use crutches. While both he and his physician have testified that after the disease left his lungs, and not before, it settled in his leg and arm. This must have been before he made his application to the Commissioner of Pensions. Though the probability is neither he nor they knew the fact at the time, and besides, his papers from the surgeon of the Army were doubtless considered much more likely to pass unchallenged through the Pension-Office than any which he could procure from local physicians. Indeed the latter, which are now before the committee, would not have gone through at all.

Considering the labor performed in getting up the testimony in the case, it is not by any means clearly made out. In the absence of further medical testimony as to the relation the present disability bears to the former, the committee cannot venture to recommend the passage of the bill.

IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1873.—Ordered to be printed.

Mr. FERRY, of Connecticut, submitted the following

R E P O R T :

[To accompany bill H. R. 2412.]

The Committee on Pensions, to whom was referred the petition of Helen M. Smith, widow of Preston D. Smith, praying for a pension, and House bill 2412, being an act for the relief of Helen M. Smith, respectfully report :

That said Preston D. Smith was employed as a civilian laborer, under contract, by Captain C. W. Moulton, quartermaster, at Beverly, West Virginia, in the autumn of 1861, and winter of 1861-'62; that in consequence of exposures and severe labors in such employment, taking charge of the quartermaster's stores and ordnance belonging to the Government of the United States, said Preston D. Smith sickened and died. He was not a soldier, nor did his death result from anything occurring to him while in the military service.

The committee report adversely.

1870

1870

THE HISTORY OF THE

PROTESTANT

The history of the Protestant Church in America is a subject of great interest and importance. It is a subject which has attracted the attention of the people of all nations, and which has been the subject of many valuable works of history and literature. The history of the Protestant Church in America is a subject which has attracted the attention of the people of all nations, and which has been the subject of many valuable works of history and literature.

IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1873.—Ordered to be printed.

Mr. FERRY, of Connecticut, submitted the following

REPORT:

[To accompany bill S. 1092.]

The Committee on Pensions, to whom was referred Senate bill 1092, granting a pension to Agnes Ellen Kleiss, respectfully report:

That said Agnes is the widow of Daniel Kleiss, formerly a sailor in the United States Navy. He left the naval service many years before his death, which resulted from a fall in the year 1858. There is nothing in the case to entitle his widow to a pension.

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IN THE SENATE OF THE UNITED STATES

Testimony of 1872—related to the subject

Mr. [Name] of [State], submitted the following

REPORT

(To accompany H. R. 1000)

The Committee on Finance, to whom was referred H. R. 1000, have the honor to report to the Senate the following report:

That said House in the winter of 1861, passed a resolution in relation to the subject of the report, which was passed in the year 1861. There is nothing in the case to require the report to a pension.

IN THE SENATE OF THE UNITED STATES.

JANUARY 31, 1873.—Ordered to be printed.

Mr. BOREMAN submitted the following

REPORT:

[To accompany bill H. R. 1418.]

The Committee on Claims, to whom was referred the bill (H. R. 1418) for the relief of Charles H. Mallory and Company, of New York, have had the same, together with the accompanying papers and evidence, under consideration, and respectfully submit the following report:

It appears that in the latter part of September, 1866, General Doubleday, then in command of a detachment of the Seventeenth Infantry, United States Army, at New York, was ordered by General Grant to Texas; and that, through General Meade, commanding Department of the East, General Van Vliet, quartermaster at New York, was, on the 29th of September, 1866, ordered to procure water-transportation for said detachment as early as practicable from New York City to Galveston, Texas, on requisition of General Doubleday; that on the 9th of October, General Doubleday made requisition on said quartermaster for transportation for his command, consisting of the general in command, ten (10) commissioned officers, ten (10) servants, twelve (12) laundresses, and one hundred and ninety (190) enlisted men—in all, 223 persons; four horses, and 4,000 cubic feet for storage of baggage; that on the 11th of October said quartermaster made a verbal contract with claimants (Charles H. Mallory & Co.) for such transportation by their steamer Euterpe, which was then plying regularly between New York and Galveston, and whose regular day for sailing then was the following Saturday, the 13th of October; that at the time of making the contract, the vessel was receiving passengers and freight as usual, with every assurance that she would be loaded to her full capacity; that on making the contract the officers of the vessel, as they were ordered, refused any more passengers or freight, as all room would be required for the troops; that said quartermaster at once set his carpenters at work in the vessel, putting up bunks and otherwise arranging it for them; that at 6 o'clock p. m. on the 13th of October, claimants were notified, by written communication from General Doubleday, that their vessel would not be needed; the regular time for sailing was 12 o'clock noon of that day, and of course had passed; claimants called on Quartermaster Van Vliet the same evening and showed him the notice from General Van Vliet, when the quartermaster said to them, "Act accordingly, and call at my office Monday morning;" which claimants did, and

there received from him a discharge for their vessel. The vessel being thus detained beyond her regular time, they at once dispatched her on her voyage without further freight or passengers, in order that she might make her trip as nearly regular as practicable.

It appears that General Doubleday had an examination of the vessel by a board of officers, and inspected her himself, and became dissatisfied with and refused to embark his command on her; yet the proof is clear, as it seems to the committee, that she was comparatively new, having been built only about two years; that she was strong, seaworthy, and safe; that she was well provided for ventilation and with the usual accommodations, and was entirely comfortable.

The charges, according to contract for transportation, if it had been performed, would be as follows:

For officers, enlisted men, laundresses, servants, and horses	\$4,588 50
For baggage	1,050 00
Making	5,638 50
To this, claimants add one day's detention of steamer, 799 tons, at 45 cents per ton	359 55
Making whole claim now set up	5,998 05

Upon the facts above detailed, claimants say the contract with them is broken and they are damaged to the amount here set forth, to wit, \$5,998.05.

A few days after the transaction, they presented their claim for this amount to General Van Vliet, the quartermaster with whom they had made the contract, and who was familiar with all the circumstances; and he, by letter of the 30th of October, 1866, forwarded it to the Quartermaster-General, United States Army, for his orders as to its payment, in which letter he says, "The claim is a just one, and ought to be paid."

On the recommendation of the Quartermaster-General, and by order of the Secretary of War, a court of inquiry was convened on the 18th of December, 1866, to investigate the whole transaction, "including the amount of liability by the Government, if any, to the owners of the above-named steamer Euterpe."

The finding of this court contains the evidence adduced before it, both documentary and oral, and concludes with the following opinion:

1st. That the transportation furnished was suitable.

2d. That the main responsibility for the failure to make use of the transportation after it had been secured must rest upon Brevet Major-General Doubleday, commanding the detachment. This responsibility *may*, to some extent, be qualified by a rejection of the steamer by the board of officers appointed by him for its inspection.

3d. That there was a breach of contract made by the Quartermaster's Department with the owners of the steamer Euterpe, resulting from the rejection of the latter, and, under the circumstances, a positive loss thereby to them, for which they should be indemnified to the amount of five thousand two hundred and ninety-two dollars and twenty-five cents, (\$5,292.25,) being for the actual number of officers, enlisted men, laundresses, servants, horses, and the amount of baggage that would have been transported at the rate agreed upon.

This finding and opinion of the court being submitted by the Secretary of War to the Quartermaster-General, for remark thereon, the latter, on March 8, 1867, returned the same to the Secretary of War, with his indorsement as follows:

The evidence before the court of inquiry fixes the *average* receipts (of said steamer) from freight and passengers at about \$13,000 per trip. It also appears that the receipts from private sources, on the trip on which General Doubleday's command was to have been transported, were about \$7,800. This would leave \$5,200 as the amount necessary to make up the average receipts per trip.

It would seem clear that the Government is responsible for the actual loss sustained by reason of the breaking of the contract made by General Van Vliet. However, as the company performed no transportation service for the Government, and as the Department cannot pay any prospective profit which might have been made if the service had been performed, it is respectfully recommended that authority be given to refer the claim to the Third Auditor of the Treasury, with a recommendation of payment of \$5,200, with a deduction of 20 per cent. for the ordinary expenses not incurred by the company (the claimants) by reason of the non-performance of the service.

The proceedings of the court with this indorsement of the Quartermaster-General were submitted by the Secretary of War to General Grant, for his opinion; and on March 16, 1867, he returned the same to the Secretary of War with his "approval" of this recommendation of the Quartermaster-General. And on March 25, the Secretary "approved" the same, and returned it to the Quartermaster-General for the purpose of submitting it to the accounting-officers of the Treasury for settlement and payment.

On April 1, 1867, the Quartermaster-General transmitted the papers to the Third Auditor of the Treasury Department, with the recommendation that settlement be made with the owners of the *Euterpe* for the sum last mentioned, to wit, \$5,200, less 20 per cent. for expenses not incurred by reason of non-performance of the service, \$1,040; amount to be paid claimants, \$4,160.

Under date of July 20, 1867, the Third Auditor, in a communication to the Second Comptroller, after reviewing the whole matter submitted to him, says:

The opinion of this office coincides with that of the Quartermaster-General in regard to the validity and justice of this claim, and also in reference to the basis of settlement. The United States are clearly responsible to the owners of the *Euterpe* for the loss they sustained in consequence of the breach of contract. It appears, however, that the claim is for compensation for services which the vessel was prevented from performing by the action of the Government, and therefore purely a claim for damages for breach of contract, and not within the jurisdiction of this Department.

Under date of July 25, 1867, the Acting Second Comptroller, in a communication returning the case to the Third Auditor, says:

You are undoubtedly correct in holding that the claim as presented cannot be allowed by the accounting-officers. It has been held in innumerable instances, by this office, that damages or loss arising from a breach or non-fulfillment of a contract on the part of the United States cannot be allowed by the accounting-officers. The relief, if any, must come from Congress.

Yet he suggests that—

It has been uniformly held that where *such* contracts have been abrogated by Government while in process of performance, the accounting-officers might make allowances for *services* and *expenditures* of time and money actually laid out and incurred in the legitimate and *bona-fide* endeavor to perform the contract.

But he says there is no evidence in this case to furnish a basis for an estimate of such allowance, and thereupon he suspends the case "for further proof or such action as claimants may choose to take."

Other communications passed between the Third Auditor and Second Comptroller in regard to this last suggestion, and finally, on June 26, 1868, the Second Comptroller decided that—

Upon the claimant's filing a consent to abide by the action of the accounting-officers, an allowance may be made for three (3) days' services, &c., [meaning for the time the vessel was supposed to have been delayed,] at \$359.55 per day=\$1,078.65, in full satisfaction of their claim growing out of the contract and rescinding thereof, &c.

The claimants declined the proposition contained in this decision, and have not yet received the amount claimed by them, or any part thereof, and now appeal to Congress.

It seems to the committee, from the evidence before them, that there

was a plain and explicit contract made by the proper officer of the Government with claimants for the transportation of the detachment of troops as above mentioned; that claimants were ready and prepared to perform it on their part; that it was violated and broken on the part of Government without cause; that claimants' vessel was thereby compelled to depart from New York (in order to make her regular trip) without her usual number of passengers and quantum of freight, and was also somewhat delayed in her departure, whereby claimants sustained damage. It does not follow, however, that the measure of such damage is, as they claim, the sum that was agreed to be paid them for the transportation of the troops, inasmuch as they were not transported, and the expenses incident thereto, had it taken place, were not incurred by claimants; but their damage, under the circumstances of this particular case, is rather the amount which they actually lost by the breach of contract on the part of the Government, which, in the opinion of the committee, may be fairly and correctly ascertained in the mode suggested by the Quartermaster-General, as above set forth, to wit:

Take from the *average receipts* of the vessel *per trip* the *actual receipts* from private sources for the trip in controversy, and the deficiency is found to have been \$5,200. But as the troops were not transported by claimants, nor the ordinary expenses incident thereto incurred by them; and these expenses being estimated by the Quartermaster-General—no doubt correctly—at 20 per cent. of the sum last mentioned, and being deducted therefrom, there appears \$4,160 as the amount of damages sustained by claimants, which, in the opinion of the committee, they are entitled to receive from the Government.

The committee therefore report back the said House bill, with the recommendation that it do pass.

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IN THE SENATE OF THE UNITED STATES.

JANUARY 31, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 2259.]

The Committee on Claims, to whom was referred the bill for the relief of James M. Hagar, having considered the same, report :

The claimant was sole owner of the American ship *Ida Lilly*, commanded by William M. Patterson. On the 3d of December, 1869, said ship sailed from Mobile for Havre, with a cargo of cotton; thence to Cardiff, Wales, arriving there the 7th of February, 1870. Immediately upon her arrival the under officers and crew, ten in all, deserted. The consul at that port, without justification from the evidence, under a law which will be hereafter referred to, demanded of the master of said ship \$975, in gold, to wit, three months' wages, on the alleged ground that these men had been unlawfully discharged in a foreign port. The master protested against this exaction; the consul insisted, refused him the ship's papers, and he finally sailed without papers for the port of New Orleans, when he was compelled to pay, still under protest, the \$975 in coin, \$21.56 in coin as consular fees, and \$400 forfeiture in his bonds given under the law. This money, less the consular fees, this James M. Hagar claims to recover back of the United States. There is no question but that the whole of this money was covered into the Treasury of the United States subsequently. The consul claims that these men were discharged without authority of law at Cardiff; that he exacted the three months' wages by virtue of the law; that the master sailed without his papers; that the officers at New Orleans properly demanded the \$400 forfeiture, these seamen having been so discharged.

From a careful examination of the several statutes relating to such cases, the following propositions may be fairly deduced, to wit:

1. The master cannot discharge a seaman in a foreign port. The discharge must be the official act of the consul. (Acts 1840, '55, and '56.)
2. The consul cannot discharge without an application from the master, or mariner, or their joint application. (Acts 1840, '55, and '56.)
3. The consul cannot discharge except upon such application, and it must appear as the grounds of consular action, that the mariner is entitled to discharge "under some act of Congress, or according to the general principles or usages of maritime law, as recognized in the United States. General principles or usages of maritime law, as recognized in the United States," can only mean such principles, &c., as our courts have held as sufficient excuse for the mariner to desert the vessel, to wit:

"Cruel treatment, insufficiency of the [vessel in men, sails, provisions, performance of contract," &c. Such only justify desertion, and authorize, when proven, a discharge by the consul.

Now, in this case there was no such application from master, mariner, both or either; no complaint was ever made to the consul that there was "cruel treatment;" that the vessel was "insufficient in men, sails, rigging, or provisions," and no allegation that the contract had been performed.

Again, there are certain "general principles and usages of maritime law, recognized in the United States," which authorize the master to discharge the sailor in any port, notwithstanding the contract and the bond, to wit, "habitual disobedience of orders," "mutinous, rebellious conduct," "embezzlement, habitual drunkenness," &c. The acts of 1840, 1855, and 1856, make the consuls a court for investigation in matters of agreement and controversy between the master and the mariner. The limits of his powers are fixed by the statutes conferring them. Not only the results of the acts must appear, but the grounds of action must be of record; certificates under his official seal, when given, must exhibit not only results, but "investigations," grounds of action, and be open to revision and correction elsewhere. The consul cannot act at his will and caprice, and trifle with the rights of others, but only within his clearly expressed legal powers.

In this case there was no "investigation;" the consul did not even inform the master of any charges made by his crew against him or his vessel. This appears from the papers in the case, and does not seem to be denied. The consul demands \$975; the master wishes to know how and why; detains his ship for a long time at great loss and damage to learn what the complaint is; why this money is demanded as a condition for the delivery of the ship's papers; demands an "investigation" of the charges (if any) made by the crew, but the consul refuses his reasonable and legal requests. This proceeds upon the hypothesis that the statements of the consular letter are sustained by proof, but your committee finds that they are not. Captain Patterson, in his protest, denies much so stated by him; the mate who deserted, and for whom this consul claimed \$150, says, "I left said vessel of my own voluntary wish, and without the permission or fault or knowledge of the master;" the second mate, a deserter at the same time, makes a similar statement as to himself, and the eight men who also deserted. It is true these men had received all or nearly all of their wages, but there is no law against this. The law of 1790 does not allow the sailor to demand in a foreign port more than one-third of the wages earned; but it does not forbid the payment by the master of the whole. If the sailor has received his whole pay and deserted, he is a deserter, not "a discharged man," and such payment gives to the consul no right to "discharge." Nor is the master by any law compelled to do police duty, or hire a police force to prevent desertion, nor, if his crew do desert, is he compelled to pursue. Desertion is thus defined by the statute: "When a mariner without leave of the master, or officer commanding, absents himself for more than forty-eight hours from the vessel," it is desertion. Proof of desertion is defined, "entry in the log-book by the officer having charge of it, of the mariner's name, the day in which he absented himself; and when it occurs in a foreign port," "the master should note the fact and the date of desertion on the crew-list, to be authenticated by the consul."

The master's protest, made at Cardiff, and on file in this case, shows that the desertion of the officers and crew was duly entered in the log-book, and reported to the consul. From a careful review of the facts

in this case, and an examination of the law applicable thereto, we think there was no "discharge" of these men; no grounds for such discharge, and no legal claim for the payment of the \$975, or of the \$400, and that this claimant should recover the same back from the United States, wherefore that the bill referred should pass.

The Solicitor of the Treasury, to whom these papers were referred by the Secretary, in his opinion, herewith filed, says: "I am of the opinion that the allegations of the consul are not sustained by the papers submitted;" also, "taking this view of the case, the money in question, except the consul's fees, was erroneously collected from Mr. Patterson."

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IN THE SENATE OF THE UNITED STATES.

JANUARY 31, 1873.—Ordered to be printed.

Mr. MACHEN, from the Committee on Claims, submitted the following

REPORT:

Daniel D. Leary, as appears by the petition and papers filed in this case, was the owner of steamer John Farrow, of about two hundred and fifty tons burden; that on the 4th March, 1862, he chartered said vessel to the Quartermaster's Department of the Government, represented by Captain H. C. Hodges, assistant quartermaster United States Army, at New York, for the sum of \$400 per day; he, Leary, furnishing the hands and officers to man and run her at his own expense. The boat was retained in the service under said contract until the 6th day of July, 1863, and from that date was run by the United States, the Government having seized her for public use, against the wishes of said Leary. By a letter from the Quartermaster's Department, of January 28, 1871, directed to the Secretary of War, it appears that the owner of the vessel had been paid for her use from March 4, 1862, to November 15, 1862, one hundred and two thousand eight hundred dollars; and that, after she was seized by the Quartermaster's Department, her use continued until the close of the war. In July 1866, a settlement was made by the Quartermaster's Department with Leary, and he was then paid \$100,000 in full for the boat and her use after the 15th November, 1862.

Leary introduces testimony to show that the vessel was worth about \$75,000 at the time the charter-party was entered into, and that she was worth \$400 per day, which was the price at which she was rented, he furnishing and running the boat, and at the end of her service for the Government she was valued at about \$7,000.

Leary files testimony to show that he never consented to the abrogation of the charter-party, and that when it was set aside as exorbitant by the Government, he demanded the return of the vessel to him, but could not get her. He also shows by the testimony of several witnesses that he was forced by his circumstances to make settlement as he finally did with the Department, and that his receipt for \$100,000 was given under a protest that he would yet have more from the Government than that sum. The rent of the vessel, at \$400 per day from 15th November, 1862, until the 6th July, 1863, would have been \$92,000.

He makes up an account against the Government from 15th November, 1862, to 10th November, 1865, at \$400 per day..... \$436,000
Value of vessel 75,000

Total 511,000

which was rejected by the Third Auditor; and he then went with his

case to the Court of Claims, but his receipt of the \$100,000 barred his action there, and he now comes to Congress for relief. It is somewhat difficult to sustain the course taken by the Quartermaster's Department in this matter. Necessity is pleaded for the exorbitant contract in the first place, and then, when she was pressed into service, in violation of the charter-party, necessity is still pleaded for justification of the act. Without undertaking to settle the propriety of the actings of the Quartermaster's Department in this matter, we turn to the results of the use by contract and by seizure of the vessel John Farrow, as affecting the petitioner's pecuniary condition, and we are forced to the conclusion that he ought to be well satisfied with what he has received from the Government, and that his demands are extortionate in the extreme, and cannot be considered by the committee as having any equitable foundation whatever.

The committee ask to be discharged from the further consideration of the petition, and that it be indefinitely postponed.

IN THE SENATE OF THE UNITED STATES.

JANUARY 31, 1873.—Ordered to be printed.

Mr. SCOTT submitted the following

REPORT:

[To accompany bill H. R. 692.]

The Committee on Claims, to whom was referred House bill No. 692, for the relief of Daniel M. Page, late first lieutenant of the Thirty-eighth United States Infantry, have considered the same, and submit this report:

This bill passed the House of Representatives February 16, 1872, and comes to us unaccompanied with any written report, and directs the accounting-officers of the Treasury to allow Lieutenant Page credit for \$420, public money of the Subsistence Department, "stolen from said officer at Fort Bayard, New Mexico, on the 23d December, 1868, without fault or negligence on his part."

A board of survey, appointed on the 19th January, 1869, "to examine into and report fully all the circumstances of the loss, and fix the responsibility therefor," met on the 20th January, 1869, and a majority of them found as follows:

The majority of the board find as follows: That Lieutenant D. M. Page, Thirty-eighth Infantry, acting commissary of subsistence at Fort Bayard, New Mexico, had in his possession, and was accountable for, on the 23d day of December, 1868, the sum of \$420 of commissary funds, belonging to the United States; that he kept this money in (his) own personal possession, in his private quarters; that he had no grounds to doubt its entire security in the place he kept it; that no place of greater security was at his command, and that no depository of public funds was nearer to his post than the one at Santa Fé; that it had been customary with other officers acting in the same capacity to keep public funds in their personal possession in the same manner.

They further find that between the 23d day of December and the 29th day of December, 1868, his private quarters were entered and this money stolen by a thief or thieves to him and to the board unknown; that Lieutenant Page discharged his duty as the custodian of the public money under his charge in good faith and honesty, and with due care and watchfulness; and also, that he has, since the loss was discovered, used due diligence to detect the thief or thieves, or to recover the money.

The board, therefore, being fully confident of the integrity and faithfulness of Lieutenant D. M. Page, in the discharge of his duties as acting commissary of subsistence, find that he should not be held responsible for the aforesaid loss, and respectfully recommend that he be allowed to drop from his next account-current the amount of \$420, by accounting for it as lost, as shown in these proceedings. See inclosed papers marked "A," "B," "C," and "D," and "E" and "F."

The recorder does not agree with the majority of the board, in the above statement of circumstances and the finding thereto.

Looking into the proceedings, we do not find any time fixed by any of the evidence attached to the finding, prior to the 29th of January, when Lieutenant Page is shown to have had the money actually in his possession, except his own affidavit, which fixes the 23d of January as

the date when he had \$617 of public funds; "that," he says, "he kept in the same place with his own money, taking the same precaution to secure both from being stolen, and that said place is a locked drawer in his desk, the desk being in the room occupied by his family as a sitting-room and bed-room also; that said room is seldom left unoccupied, and, when so left for any length of time, is locked."

He further says, "That on or about the 29th day of December, 1868, he had occasion to open said drawer containing the funds above mentioned, and to use some of the same, and found that \$420, for which he was responsible as acting commissary of subsistence, * * had been burglariously abstracted from his desk by entering it with false keys." He says he used every effort to discover the thieves, but without success. What the efforts were is not stated and does not appear, except that some soldiers whom he suspected he caused to be searched, as they were drawn up ready to start upon a march on the 16th of January. When he first suspected them is not stated. Whether he lost any of his own money by the same theft does not appear, and the fact of the loss appears to have been communicated only to George Ferris, a private in Company D, Thirty-eighth Infantry, on the evening of the 29th, when Lieutenant Page informed him of it, and said he believed it had occurred "about Christmas," desiring him to keep a lookout for it, and naming to him some suspected parties, whose names, however, he does not state in his affidavit.

There is attached also to the finding this statement:

There is in the office of the acting assistant quartermaster at this post an iron safe, and I know of no objection why Lieutenant Daniel M. Page, Thirty-eighth Infantry, and acting commissary of subsistence at this post, could not have deposited the commissary funds in the same.

(Signed) .

JAS. N. MORGAN,

First Lieutenant Thirty-eighth Infantry and Brevet Major U. S. A., A. A. Q. M.

Lieutenant Page accounted for this lost money in his December report, but, after the finding of the board of survey, dropped it from his accounts, and upon doing so he was informed that it could not be allowed, but for relief he was referred to the Court of Claims under the act approved May 9, 1866, which clearly covers his case. Why he did not resort to that tribunal, or whether he did so resort, is not stated.

Taking the facts as they appear in the papers submitted to us, especially the dissent of one member of the board of survey convened so soon after the occurrence, and upon the spot where all the parties and circumstances must have been known, we think we are dealing kindly toward the claimant in recommending that he be permitted to withdraw his papers for prosecution of his case in the Court of Claims, and that the bill be indefinitely postponed.

IN THE SENATE OF THE UNITED STATES.

JANUARY 31, 1873.—Ordered to be printed.

Mr. HOWE submitted the following

REPORT:

[To accompany bill S. 987.]

The Committee on Claims, to whom was referred the bill (S. 987) for the relief of Henry Warren, &c., have examined the same, and beg leave to bring in the following report:

The facts in this case are embodied in a written statement made by the claimants, the substance of which is as follows:

Some time in the fall of 1865 one W. T. Mattock was United States designated depository at Oregon City, Oregon. At the same time one C. De Witt Smith was the secretary of Idaho Territory. Upon the decease of Mr. Smith, which occurred during this fall, Horace C. Gibson was appointed his successor; and on the 1st day of February, 1866, Henry Warren, the claimant, succeeded Mattock as depository, receiving from him at that time, among other moneys, the sum of \$2,000 to the credit of said Smith.

A draft was issued on the 29th of December, 1865, which was received by claimant on the 24th day of February, 1866, for \$33,000 to the credit of said Horace C. Gibson, secretary of Idaho Territory. This he deemed sufficient notice to himself that Gibson was recognized as the acting secretary of said Territory, and as such authorized to receive all moneys deposited to the credit of the Territory. On the 16th day of October, 1865, Gibson sent an order to Mattock withdrawing the \$2,000 held to the credit of Smith. Mattock replied that, before paying over the money, he (Gibson) must furnish evidence of the death of Smith and of his (Gibson's) identity as the acting officer, as secretary of that Territory. This was four months before Warren, the present claimant, came into office.

On the 28th of February, 1866, Gibson appeared in claimant's office in person, and was identified as secretary of Idaho Territory. Being satisfied that Gibson was the proper officer to draw such funds, claimant paid over to him the \$33,000 deposited to his credit, and also the \$2,000 deposited to the credit of C. De Witt Smith, deceased, as secretary of Idaho Territory.

Claimant heard no more of the matter until six years afterward, when he received a letter from the Treasury Department under date of February 6, 1873, calling upon him to deposit \$2,000, an amount said to be due by him on account of the foregoing transaction.

The claimant therefore comes to Congress, asking to be relieved from the payment of that sum as unjustly demanded.

The following letter from the Secretary of the Treasury will further explain the case :

TREASURY DEPARTMENT,
Washington, D. C., January 28, 1873.

SIR: In reply to the letter of the clerk of your committee sent to me under date of the 27th instant, with copy of Senate bill No. 987, for the relief of Henry Warren, &c., I have the honor to say that as the statement of Mr. Warren accompanying said bill is substantially correct, and furnishes all the facts in the case, I do not deem it necessary to enter into further details, and will only add that Mr. Warren in paying to Mr. Gibson on the latter's check the \$2,000 standing on his books to the credit of C. De Witt Smith, did what he was not authorized to do by Department regulations, but as I have no doubt that he did it in good faith and through a misapprehension of his duties in the premises, I think it a great hardship to hold him accountable for the sum in question.

He ought to be relieved and Mr. Gibson charged with the amount, and if your committee shall determine to recommend his relief, I would suggest that the bill be so amended as to further direct that the amount be charged to Horace C. Gibson. * *

Very respectfully,

GEO. S. BOUTWELL,
Secretary.

In view of the facts as here stated, and in concurrence with the foregoing letter of the Secretary of the Treasury, your committee are of the opinion that the claimant should be relieved from the payment of the \$2,000 credited against him, and that the amount be charged against Horace C. Gibson, and therefore report back the bill to the Senate, with the recommendation that it do pass with the appropriate amendment.

IN THE SENATE OF UNITED STATES.

JANUARY 31, 1873.—Ordered to be printed.

Mr. EDMUNDS, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 2902.]

The Committee on Claims, to whom was referred the memorial of Isaac Watts, administrator of the estate of William Gerrish, asking damages on account of an annulment of a contract of Abel Gilbert, of the firm of Gilbert & Gerrish, have considered the same, and ask leave to report:

The following is a statement of the facts in this case, as they appear upon the records in the office of the Quartermaster-General, and not denied by either party:

On the 21st day of May, 1859, a contract was entered into at Salt Lake City, between Colonel Geo. H. Crosman, deputy quartermaster-general United States Army, and Abel Gilbert, according to the terms of which, the latter was to supply the army of General Johnston, then stationed at Camp Floyd, in Utah, with forty thousand bushels of wheat, rye, barley, corn, and oats, in equal or unequal portions of each, at the option of the parties, and for which Colonel Crosman was to pay two dollars per bushel for the wheat, rye, barley, and corn, and one dollar and fifty cents per bushel for the oats; and the contract expressly reserved to the United States the privilege of increasing the quantity of grain to be delivered to one hundred thousand bushels, at any time within fifteen days from the date of the contract. Within the time stipulated, Colonel Crosman notified Gilbert that he would be required to deliver one hundred thousand bushels. The contract was, therefore, for the delivery of one hundred thousand bushels. This grain was to be delivered by Gilbert to the United States at points not more distant from Camp Floyd than the town of Manti, San Pete Valley. But the contract further provided that if Colonel Crosman should require the grain to be delivered at Camp Floyd, Gilbert was to receive two dollars and fifty cents per bushel for corn, rye, wheat, and barley, and two dollars per bushel for oats. Payments were to be made from time to time, as the grain was delivered, or as funds were received by the Quartermaster-General. The whole of the grain was to be delivered, at the convenience of Gilbert, between the 1st of July, 1859, and the 1st day of June, 1860, not less than ten thousand bushels to be constantly kept on hand at Camp Floyd.

Gilbert received notice from Colonel Crosman to deliver the grain at Camp Floyd, instead of the points mentioned in the first article of the contract, and, in accordance therewith, commenced the execution of the contract, by delivering the grain at Camp Floyd, and delivered a large quantity of grain at that point, which was received and paid for, and he was proceeding in the execution of his contract, when, in the winter of 1859, or late in the fall of 1859, he was requested by General Johnston

and Colonel Crosman to discontinue further deliveries of grain except in small quantities, from time to time, as needed for issue, they stating that the number of mules had been largely reduced, three thousand having been sold at auction, and that there was no room in the store-houses for more grain at that time.

To this Gilbert assented, with the understanding, as Colonel Crosman says, that there would be no objection to extending the time for completing his contract into another year. Accordingly, on the 17th day of April, 1860, an agreement was entered into between Colonel Crosman and Gilbert, by which the time for the delivery of the grain was extended from the first day of June, 1860, to the 30th day of June, 1861, Gilbert having at that date, (April 17, 1860,) executed about one-half of his contract.

This change in the contract, as abundantly appears by the statements of Colonel Crosman, was made for the convenience of the Government and for its benefit, at the instance of Colonel Crosman. Gilbert did not seek the change. On the contrary, it appears that he was ready to continue the delivery of grain and complete the contract.

On the 14th of July, 1860, three months nearly after the agreement extending the time for the delivery of the grain had been made, General J. E. Johnston, Quartermaster-General, wrote to Colonel Crosman, informing him that the said agreement changing the time of delivery had been disapproved and annulled by the Secretary of War, on the ground that there were no sureties to guarantee its fulfillment, and that the competition required by the regulations had not been invited, and directing Colonel Crosman to inform Mr. Gilbert of his action. To this letter Colonel Crosman replied, remonstrating against such action, and explaining that the agreement of April 17, 1860, was not a new contract for grain, but merely one extending the time for the completion of the original contract, which had been made at his instance for the convenience and benefit of the Government, and urging that Mr. Gilbert be permitted to complete his contract.

It appears from the records that the original contract with Gilbert was made after advertisement, according to regulations for proposals to furnish the grain had been made, and that Gilbert's was the lowest bid of fifteen, a majority of which ranged from \$4 to \$6 a bushel, one being as high as \$13, and that both that contract and the one extending the time for its completion were approved by the commander of that department, General Johnston. It also appears that there were approved sureties to the first contract, and that those sureties consented to the extension of time by the second.

Regarding, then, the agreement of April 17, 1860, as merely an extension of time for the completion of the original contract made at the instance of the Government, and for its benefit, there seems to be no force in the reasons given by the Secretary for disapproving it. That the second agreement was, by its terms, and was intended so to be by both Colonel Crosman and Mr. Gilbert, is conclusively shown by the record.

On the 17th day of August, 1860, four months after the second agreement was made, and while Gilbert was actively engaged in supplying the grain called for by the contract, Colonel Crosman notifies him of the action of the Secretary of War, and informs him that no more grain will be received from him on the contract.

Mr. Gilbert protested against this violation of the contract, and gave notice of his readiness to comply with his part of the contract by delivering the full quantity of grain required to fill it, representing that he had already purchased the grain, and if it was not received the loss

would be ruinous to him. He tendered the grain to Major Clary, then chief of the quartermaster's department of Utah, and Major Clary, under the instructions from the War Department, declined to receive it. Mr. Gilbert then appealed to the Secretary of War to reconsider his action, but in vain. Finally, in November, 1860, the Secretary of War referred the question of the validity of the contract to the Attorney-General for his opinion, who decided that the contract was valid and binding upon the parties; that it had clearly been violated by the Government, and the contractor was entitled to damages; and suggested that the most equitable course would be to permit the contractor to execute the agreement. Mr. Gilbert then again offered to deliver the grain, but the Quartermaster-General declined to receive it, on the ground that they had all the grain that would be needed. Again and again did Mr. Gilbert propose to complete the contract, but his offers were declined. There is not in the record the slightest intimation that Mr. Gilbert failed in any respect to comply with his contract, but the Secretary of War had annulled the contract, and there he let it rest, notwithstanding the opinion of the Attorney-General.

It appears that there were delivered by Mr. Gilbert on the contract 60,976 bushels, leaving yet to be delivered 39,024 bushels.

After the contract with Gilbert was annulled, a new contract was made by the Government with another party for the grain.

From the evidence submitted by the claimants, it appears that at the time Mr. Gilbert received notice of the annulment of his contract by the Secretary of War, in the middle of August, 1860, he had purchased and had on hand at Camp Floyd, ready for delivery under the contract, about 35,000 bushels of the grain, which had cost him an average of about \$1.50 per bushel; that after the crop of 1860, which was an abundant one, was harvested, the prices of all grain declined very rapidly, as grain was very plenty and the demand for it quite limited, and that he lost on the grain on hand in August, 1860, which he had bought to deliver on the contract, from seventy-five cents to one dollar per bushel by the decline of prices alone, to say nothing of the expense of storing and caring for it, transporting it to a market, &c.; that after the harvest of 1860 grain sold in Utah, at market prices, for from fifty to seventy-five cents per bushel, and that thousands of bushels of sound corn, which had been transported from the Missouri River by the Government, was sold by the Government at Camp Floyd early in the summer of 1861 at twenty-five cents per bushel; that the prices of grain in 1859 and the early part of 1860 were high, ranging from \$1.75 to \$2 per bushel, and that Mr. Gilbert made very little, if anything, on the grain which he delivered on the contract, by reason of the high prices and the large expense attending business in that country; that Abel Gilbert was a member of the firm of Gilbert & Gerrish, and that the said firm was greatly embarrassed financially and bankrupted by the violation of this contract by the Government.

Although this contract was made in the individual name of Abel Gilbert, it appears that he was acting for the firm which was composed of Abel Gilbert and William Gerrish. Mr. Gerrish died in 1865, and is represented by Isaac Watts, the administrator of his estate, and Mr. Gilbert died in 1871, and is represented by Benjamin W. Gilbert, his administrator.

Wherefore, they recommend the payment to these legal representatives of the estates of said Gilbert and Gerrish, as damages, seventy-five cents a bushel loss on thirty-five thousand bushels of grain, amounting to \$26,250, providing said sum shall be received in full satisfaction

for all damages sustained by said estates for breach of said contract, and for that purpose the enactment of the accompanying bill.

The following papers are referred to in connection herewith:

1. The original contract, marked A, with copy of notice increasing the quantity attached.
2. The copy of the agreement extending the time, marked B.
3. Copy of Quartermaster-General's letter annulling the contract, marked C.
4. Letter of Colonel Crosman to Mr. Gilbert, informing him of the action of the Secretary of War, marked D.
5. A copy of Colonel Crosman's letter to Mr. Gilbert, in reply to his of the 17th August, 1860, marked E.
6. Letter of Mr. Gilbert to Major Clary, expressing his readiness to complete his contract, dated October 11, 1861, marked F.
7. Major Clary's reply, marked G.
8. Official copy of the opinion of the Attorney-General, marked H.
9. A copy of Quartermaster-General Johnston's letter of January 19, 1861, to the Secretary of War, as to quantity of grain delivered, marked I.
10. Copy of a letter from Quartermaster-General's Office, referring claimant to Congress for relief, marked K.
11. Affidavit of Thomas A. Janney, marked L.
12. Affidavit of C. P. Gilbert, marked M.
13. Affidavit of A. S. Beck, marked N.
14. Affidavit of J. W. Hardesty, marked O.
15. Letters of administration of Isaac Watts.
16. Letters of administration of Benjamin W. Gilbert.
17. Copy of letter of Colonel Crosman of August 20, 1860, to the Quartermaster-General, marked P.
18. Copy of letter of Abel Gilbert to Secretary of War, of August 19, 1860, marked Q.
19. Copy of letter of Abel Gilbert to Colonel Crosman, of August 17, 1860, marked R.
20. Copy of letter of Colonel Crosman to Abel Gilbert, referring to notice, marked S.
21. Copy of indorsement and recommendation of E. S. Sibley, quartermaster in charge.
22. Copy of Quartermaster-General Johnston's letter of October 11, 1860, to Secretary of War.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1873.—Ordered to be printed.

Mr. HOWE, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to whom was referred the petition of B. F. Rittenhouse for relief, have examined the same, and bring in the following report :

The petitioner represents that he is a clerk in the office of the Register of the Treasury Department; that from the year 1849 to 1868, inclusive, he prepared the annual estimates of appropriations to be laid before Congress; that prior to 1864 he received no extra compensation for such service; that subsequent to 1864 he received \$250 annually, "out of the appropriation for additional compensation for extra labor in the office of the Secretary of the Treasury."

He now asks to be paid at the same rate for the preceding years.

He avers that "the estimates had no special connection with his duties in the Register's Office, and that the work was mostly done after office-hours and at home."

The petitioner fails to submit any proof in support of any one of his averments.

But if he had proved them all his claim could not be recognized.

He does not show what his duties in the Register's Office were. The committee know of no duty devolved upon him except to work the allotted number of hours in each day, and no reason is perceived why he might not be as properly employed in preparing estimates as in any other way.

When the claimant shall prove that he was regularly employed on other duty during the daily hours of labor, and was then required by his superiors to prepare the estimates out of the Department, it will be time to ask for extra compensation, and also for some animadversion upon the conduct of those superiors.

Several statutes are cited as precedents for the one now prayed. The committee do not know that they are in point, and would not follow them if they were. They therefore recommend that the petition be indefinitely postponed.

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[Faint, illegible text follows, appearing to be a formal document or letter with multiple paragraphs.]

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1873.—Ordered to be printed.

Mr. PRATT, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to whom was referred the memorial of William F. Walsh, of New Orleans, praying payment of a certain judgment, submit the following report:

It seems from the evidence that, on the 30th September, 1861, Walsh sold to one Trasimon Landry five hundred molasses-barrels, at \$1.50 each, deliverable by the 21st day of October following, otherwise the sale to be void.

Walsh was in the cooperage business in New Orleans, and kept barrels for sale.

From what purports to be a transcript of certain proceedings between these parties in the United States provisional court for the State of Louisiana, it would seem that Walsh recovered a judgment on the 19th of February, 1863, against Landry for \$750, with interest and costs of suit, "and with privilege on the property now in the hands of the United States sequestration committee, belonging to the defendant, and that a fee of \$50 be allowed to William K. Fish, esq., *curatur ad hoc*."

As the pleadings are not set out, it does not appear that this judgment was rendered for the barrels, though the coincidence in amounts strongly implies that it was. The paper is not authenticated in a manner to entitle it to be received as evidence in a court of justice; still, for the purposes of this case, we treat it as evidence of a judgment rendered by a competent court. The reference the judgment makes to a sequestration committee requires some explanation.

In 1862 W. O. Fisher was provost marshal at Donaldsonville, Louisiana. There were certain plantations, known as the "Dugas and Le Blanc plantations," which were entered on the books of the sequestration commission as the property of this Landry, they having been found abandoned. They were taken possession of on behalf of the Government of the United States, and let out to certain parties to work on its account. There were seized from the Dugas plantation 216 hogsheads of sugar which, upon sale yielded, after deducting all charges, the sum of \$14,894.84, and from the Le Blanc plantation 294 hogsheads, which yielded a net result of \$20,279.80. This sugar belonged to Landry, and was probably the property referred to in the judgment above stated. A citation of garnishment was issued against the committee in pursuance of this judgment, and certain interrogatories were addressed to them, to which they replied, on March 26, 1863, that they accounted to the Government of the United States for all the property or proceeds thereof received by them, and that, being simply the representatives of the Government, acting under military orders, they could

not be made amenable to the process of this provisional court unless ordered by the Government. According to the views which prevailed with this commission of sequestration, they, having sequestered this property in pursuance of Department General Order No. 91, issue of 1861, they were not authorized to adjudicate upon, or even investigate, the claims of third parties against the original holders of sequestered property, and pay such claims from the proceeds, except upon special orders from the department commander. Under this impression of their duty, the commission made the return above given to the citation of garnishment, at the same time setting forth fully the property in their hands belonging to the defendant. It appears that the department commander was of opinion, on this state of facts, that loyal claimants were entitled to be paid their demands out of this fund, and referred the matter to the Secretary of War. The Commissary General of Subsistence, upon reference to him of the question, decided that, this being a claim against abandoned property taken and sold under military orders, by military authority, and not for subsistence stores received or taken by a proper officer, for the use of, and used by, the United States Army as supplies for its subsistence, was not a claim adjustable in his department. This decision was made November 3, 1865.

Under these circumstances Mr. Walsh appeals to Congress, and his claim is that he was a loyal man during the war, and entitled to payment of his claim out of this sequestered property or its proceeds.

If the facts be true the conclusion might follow, at least to the extent of the proceeds of the sale of the barrels. But was he loyal? Certainly he avers it; but what are his proofs? He does not swear so himself, nor does any person in his behalf swear so. He proves that he took and subscribed the oath required by General Orders No. 41, on September 20, 1862. He produces a letter, dated at New Orleans, in March, 1865, signed by four gentlemen, one of whom was Mr. Kennedy, mayor of the city, addressed to Major-General Hurlburt. The letter is as follows:

We, the undersigned, do hereby state that we have known Mr. William F. Walsh for several years as a citizen of this place, and can confidently vouch for his loyalty and good conduct as a citizen of the United States.

This is all the evidence submitted to us on the question of Mr. Walsh's loyalty. We are not satisfied with it. We do not know the gentlemen who made that certificate. We do not know their status during the war. We do not know that they would have sworn to what they have certified. We submit higher evidence is attainable if it be true, as claimed, that Mr. Walsh was, in truth and fact, heartily, wholly, and unreservedly on the side of his country during the war. We are entitled to know how he talked, how he acted, how he was regarded by those with whom he habitually associated.

The committee cannot recommend the allowance of the claim upon the present condition of the proofs, and ask to be discharged from the further consideration of the memorial.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1873.—Ordered to be printed.

Mr. SCOTT submitted the following

REPORT:

[To accompany bill S. 141.]

The Committee on Claims, to whom was referred Senate bill No. 141, for the relief of Alstorpius Weininger, sr., have had the same under consideration, and report :

That the claimant, in the account and petition submitted with the bill, seeks payment for the use and occupancy of his lands situated near Clarksburgh, Harrison County, in the State of West Virginia, by United States troops, from the 1st June, 1861, until the 1st day of January, 1862; and from 17th February, 1862, until April of the same year; for fence-rails and bridge-timber used and destroyed by the troops; and for his corn, hay, and oatcrop destroyed in like manner.

The aggregate claim for use and occupation of the land is.....	\$925 00
The aggregate claim for rails and bridge-timber used and destroyed.....	613 20
The aggregate claim for corn, (32 acres destroyed).....	480 00
The aggregate claim for hay-crop and fodder used and destroyed.....	100 00
The aggregate claim for oats-crop used and destroyed.....	50 00
The aggregate claim for sixteen acres meadow-land damaged.....	48 00
Total.....	<u>2,216 20</u>

The name of the commanding officer of the forces that occupied the lands from June, 1861, until January, 1862, is not given, nor is there any designation of the companies or regiments composing his command. The occupancy from February until April, 1862, is alleged to have been by the Seventy-third Regiment of Ohio Volunteer Infantry. The first occupancy was of thirty acres of pasture-land, by his consent, but he alleges the troops took possession of and incidentally used and occupied two hundred acres of pasture and plowed land, thus rendering the farming lands useless during the occupation. It is not stated what quantity was occupied by the Seventy-third Ohio Infantry, but simply that they "occupied a portion of his farm."

During this period he alleges that 9,330 rails and sixty pieces of bridge-timber were used and destroyed by the troops, and that his corn, hay, and oats were used and destroyed, and the meadow-land damaged. He further states that in February, 1862, he presented a bill to General Rosecrans, whose headquarters were at Wheeling, for a portion of the damages, who referred the bill to Captain Charles Leib, then post quartermaster at Clarksburgh, with orders to investigate and pay whatever he found just; that Captain Leib ordered two of his clerks, Samuel R. Steel and a Mr. Leelybridge, to examine the matter and assess damages; and that "they did investigate and assess the damages to a

certain extent;" that Leib's appointment was not confirmed by the Senate, and he left the post about 1st April, 1862, without making payment of petitioner's claim, or any part thereof; and he avers that Leib was prejudiced against him. He further states that a portion of his claim was "before a military board of claims, at Grafton, West Virginia, and approved, as he learned from a member of the board, but from some cause the board never convened afterward to give petitioner's papers the proper indorsement."

Steel, the clerk referred to, makes affidavit "that the survey and estimate were made and reported to the said Captain Charles Leib; affiant does not recollect the amount of damages estimated, but that he has examined the estimates made by said Weininger, in his petition, and he believes them to be reasonable and just." He also says the whole claim is reasonable and proper, having examined the premises after occupation by the Seventy-third Ohio Infantry.

This claim having been twice examined, and being in large part for rent and quartermaster's stores, of both of which the Quartermaster-General had cognizance, under the act of July 5, 1864, the committee naturally expected to find some records of those proceedings in that Department, but, upon inquiry, were informed "that the records of that office afford no information concerning the case, which has not been presented to it by claimant."

The claimant can, under the act referred to, have any proper claim for rent of his property, for the rails and bridge-timber, if taken as quartermaster's stores, or for hay, corn, oats, or fodder taken, either as quartermaster's stores or for subsistence actually furnished to the Army, presented to and adjudicated by the Quartermaster's Department, which is much more competent to do justice to him and protect the Government than the Committee on Claims.

If property was wantonly destroyed by the troops without authority of a commanding officer, when all their wants were supplied, or should have been, by those whose duty it was so to supply them at the cost of the Government, the committee would not feel justified in reporting a bill to compensate for such trespassing; and as the claimant has remedy before the Quartermaster's Department for all that the committee would feel warranted in allowing him, even if the proper proof of authority to occupy and take it were before them, we ask to be discharged from the further consideration of the petition, and that the bill be indefinitely postponed.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1873.—Ordered to be printed.

Mr. FERRY, of Connecticut, submitted the following

REPORT:

[To accompany bill S. 1465.]

The Committee on Patents, to whom was referred a bill for the extension of a patent to Alexander Douglas, of New York, respectfully report:

That said Douglas obtained the patent in the bill named, April 21, 1857; that he at once began the manufacture of goods under it; that his business was broken up by the outbreak of the rebellion; that he served in the Union Army as colonel of the Twenty-second New Jersey Volunteers; that after the war he was destitute of means and obtained employment as a clerk in a silk-house, and the time for making his application to the Commissioner for extension of his patent passed by without his observing it; that he has not made to exceed \$1,000 from his patent, and that it is reasonable that he should be permitted to apply to the Commissioner for an extension, with due safeguard for those who have engaged in the use or manufacture of his invention since the expiration of his patent. The committee recommend the passage of the bill with an amendment.

1844
1845
1846

1847
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1849

THE HISTORY OF THE UNITED STATES

OF THE
UNITED STATES OF AMERICA
FROM 1776 TO 1844

THE HISTORY OF THE UNITED STATES

CHAPTER I

The first chapter of the history of the United States is the story of the early years of the nation. It begins with the first settlement of the continent by the English in 1607, and continues to the year 1776, when the United States declared its independence. The chapter is divided into three parts: the first part describes the early years of the settlement, the second part describes the growth of the colony, and the third part describes the struggle for independence. The first part of the chapter is the most interesting, for it tells us of the hardships and dangers of the early years of the settlement. The second part of the chapter is also interesting, for it tells us of the growth of the colony and the development of its institutions. The third part of the chapter is the most important, for it tells us of the struggle for independence and the establishment of the United States as a free and independent nation.

The second chapter of the history of the United States is the story of the years from 1776 to 1800. It begins with the year 1776, when the United States declared its independence, and continues to the year 1800, when the United States moved its capital from Philadelphia to Washington. The chapter is divided into two parts: the first part describes the years from 1776 to 1789, and the second part describes the years from 1789 to 1800. The first part of the chapter is the most interesting, for it tells us of the early years of the new nation and the struggles of the first Congress. The second part of the chapter is also interesting, for it tells us of the years of the Revolution and the establishment of the new government.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1873.—Ordered to be printed.

Mr. FERRY, of Connecticut, submitted the following

REPORT:

[To accompany bill H. R. 2864.]

The Committee on Patents and the Patent-Office, to whom was referred House bill 2864, being an act for the relief of John W. Mears, administrator of the estate of Henry D. Mears, deceased, and of William Moulton, jr., respectfully report :

That Henry D. Mears, deceased, and William Moulton, jr., were, at the death of the former, owners of letters-patent for improvement in car-seals ; that John W. Mears, administrator, at the expiration of said patent, made application in due time and form to the Commissioner of Patents for an extension ; that in course of said application it became necessary to file, in the Commissioner's office, copies of the letters of administration ; that these were duly sent by mail, but from some unknown cause, did not reach the Commissioner till the patent had expired and his jurisdiction had ceased.

The committee recommend the passage of the bill.

REPORT

The following report was prepared by the Committee on the Administration of the University of Chicago, and is submitted to the Board of Trustees for their consideration and approval.

The Committee was organized in 1901, and has since that time been engaged in a study of the various questions connected with the administration of the University. It has held numerous public hearings, and has received many suggestions from the faculty, the students, and the public. It has also conducted extensive research into the various problems connected with the administration of the University.

The Committee has found that the most important of these problems are the following:

1. The question of the size of the University.
2. The question of the distribution of the various departments.
3. The question of the method of selecting the faculty.
4. The question of the method of selecting the students.
5. The question of the method of selecting the officers and administrators.
6. The question of the method of raising the funds necessary for the maintenance of the University.

The Committee has endeavored to find solutions to these problems, and has submitted its recommendations to the Board of Trustees. It believes that these recommendations will result in a more efficient and economical administration of the University.

The Committee also wishes to express its appreciation to the Board of Trustees for the many suggestions and criticisms which it has received from them. It believes that these suggestions and criticisms have been of great value in the preparation of this report.

The Committee also wishes to express its appreciation to the faculty, the students, and the public for the many suggestions and criticisms which it has received from them. It believes that these suggestions and criticisms have been of great value in the preparation of this report.

The Committee believes that the recommendations contained in this report will result in a more efficient and economical administration of the University. It believes that these recommendations will also result in a more efficient and economical use of the funds of the University.

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1873.—Ordered to be printed.

Mr. FERRY, of Connecticut, from the Committee on Private Land-Claims, submitted the following

REPORT:

The Committee on Private Land-Claims, to whom was referred the memorial of the legislature of California in favor of the passage of an act for the relief of the settlers on the Suscol rancho, respectfully report :

That the facts in relation to said rancho are detailed in the following letter from the Commissioner of the General Land-Office, and the committee ask to be discharged from the further consideration of said memorial :

DEPARTMENT OF THE INTERIOR, GENERAL LAND-OFFICE,
Washington, D. C., January 23, 1873.

SIR: Yours of the 11th instant, transmitting copy of memorial to Congress from the legislature of California for relief of certain settlers on the "Suscol rancho," in that State, and requesting any information this office may be able to give regarding the matter, has been received and considered. It appears that M. G. Vallejo petitioned the United States land-commission, appointed under act of March 3, 1851, for the adjudication of private land-claims in California, for the tract known as the Suscol rancho. This tract included the city of Benicia, town of Vallejo, navy-yard of the United States, depot of the Pacific Steamship Company, and contained about eighteen square leagues of land, which was evidently very valuable.

Vallejo's claim was based on alleged grants from Micheltorena, as governor of California, and dated March 15, 1843, and June 19, 1844, respectively. His claim was approved by the United States commission, and the district court subsequently affirmed the decree of the commission. The Supreme Court of the United States, at the December term, 1861, decided that the said grant should not be confirmed, and reversed the judgment below. Prior to this, many persons had, in good faith, and for a valuable consideration, purchased from Vallejo and his assigns certain lands lying within said grant. The fact that Vallejo had held said rancho from 1843 or 1844, and that his claim was approved by the commission and the district court; that the Supreme Court was not unanimous in rejecting the said grant, and that the said individual purchasers had made large improvements on their several tracts, evidently influenced Congress to believe that these purchasers had large equities which it was a legislative duty to secure to them. Hence the act of March 3, 1863, vol. 12, chap. 116, page 808, United States Statutes, for their relief. By this act a survey was provided for, and individuals, *bona fide* purchasers from Vallejo, or his assigns, were permitted to enter, according to the lines of the public surveys, at \$1.25 per acre, the lands so purchased to the extent to which the same had been reduced to possession at the date of the adjudication by the Supreme Court; also municipal claims within the limits of said rancho were protected by allowing their entry under the town-site act of May 23, 1844. All claims under the act were required to be presented to the register and receiver within twelve months after the return of surveys to the district land-office.

Settlement on unsurveyed lands in California was authorized by act of May 30, 1862, section 7, an act to reduce the expenses of the survey and sale of the public lands in the United States. The lands in question were then unsurveyed.

The pre-emption settlers, who, after the rejection of said grant claim, and prior to act of March 3, 1863, made settlement on these lands within the purchased limits of any grantee of Vallejo, made effort to appropriate under the pre-emption laws highly valuable improvements made in good faith by other parties as aforesaid.

The equities of said pre-emptors seem to be based on a loss incurred while endeavoring to deprive others of their equities. The conclusion of this subject is for Congress in its sound discretion; but I do not feel disposed to recommend the policy indicated by said memorial. The action by Congress was made necessary by the efforts of these parties to perpetuate a wrong on innocent purchasers. It would appear that the expense of their venture should be borne by themselves.

The said memorial is herewith returned.

I am, very respectfully, your obedient servant,

WILLIS DRUMMOND,
Commissioner.

Hon. A. G. THURMAN,

*Chairman of Committee on Private Land-Claims,
United States Senate.*

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1873.—Ordered to be printed.

Mr. FERRY, of Connecticut, submitted the following

REPORT:

[To accompany bill S. 1471.]

The Committee on Patents, to whom was referred Senate bill 1471, being a bill for the relief of Josiah George Jennings, respectfully report :

That said Jennings made application for a patent for improvement in water-closets, which was allowed September 14, 1870, but became forfeited March 14, 1871, by reason of non-payment of final fee; that said non-payment occurred in this wise: the money was placed in the hands of the agents of said Jennings in due season, but by them, through inadvertence, was not paid in at the Patent-Office. The committee recommend the passage of the bill with an amendment.

IN THE SENATE OF THE UNITED STATES

January 4, 1871—Ordered to be printed

Mr. KERRY, of Connecticut, submitted the following

REPORT:

(Transmitted July 2, 1871)

The Committee on Patents, to whom was referred Senate Bill 1411, have the honor to report, respectfully, that:

That said Jennings made application for a patent for improvement in water-closets, which was allowed September 14, 1870, but Jennings for some reason of non-payment of fees, that said bill 1411, by reason of non-payment of fees, that said Jennings occurred in this case; the money was placed in the hands of the agents of said Jennings in the season, but by them, through inadvertence, was not paid in at the Patent-Office. The committee recommended the passage of the bill with an amendment.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1873.—Ordered to be printed.

Mr. FERRY, of Connecticut, submitted the following

REPORT:

[To accompany bill H. R. 3135.]

The Committee on Patents and the Patent-Office, to whom was referred House bill 3135, being an act for the relief of Thomas Warker, respectfully report :

That said Warker, on the 27th day of April, 1858, obtained letters-patent for an improvement in the apparatus for generating acid-gas; that at the expiration of said patent he intended to apply to the Commissioner of Patents for an extension, and did so apply before such expiration; that he is a foreigner, and was unaware of the length of time required for notice of such application, and thus his application came a few days too late. The committee think it is reasonable that he should have another opportunity to apply, and report the bill with an amendment.

IN THE SENATE OF THE UNITED STATES

REPORT

OF THE

COMMISSIONERS OF THE GENERAL LAND OFFICE

RELATIVE TO

THE LANDS BELONGING TO THE UNITED STATES

IN RESPONSE TO A RESOLUTION PASSED BY THE SENATE, MARCH 10, 1866, CONCERNING THE LANDS BELONGING TO THE UNITED STATES, AND THE PROCEEDINGS THEREON.

WASHINGTON: GOVERNMENT PRINTING OFFICE: 1870.

THE LANDS BELONGING TO THE UNITED STATES, AND THE PROCEEDINGS THEREON.

IN RESPONSE TO A RESOLUTION PASSED BY THE SENATE, MARCH 10, 1866, CONCERNING THE LANDS BELONGING TO THE UNITED STATES, AND THE PROCEEDINGS THEREON.

WASHINGTON: GOVERNMENT PRINTING OFFICE: 1870.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1873.—Ordered to be printed.

Mr. FERRY, from the Committee on Patents, made the following

R E P O R T :

[To accompany bill S. No. 1516.]

The Committee on Patents, to whom was referred the memorial of A. G. Batchelder and Mrs. Alsie M. Thompson, for an extension of the patent for an improvement in railroad-car brakes, granted July 6, 1852, respectfully report :

That they have carefully considered the evidence adduced in support of this memorial, and have come to the following conclusions :

Prior to this invention the only means in use for “braking” or stopping railroad-cars was the “single” brake. This only gave the brakeman control over the wheels at one end of a car, and consequently one man could never apply the brakes to more than half the wheels of a car at one time. Hence the trains could not be stopped quickly enough, and it was frequently necessary to employ a brakeman at each end of the cars to check them more speedily. This largely increased the expense, and, besides, the locomotives often had to be “reversed” under steam to assist in stopping the trains. This always jarred and injured the engines and made their repairs very frequent and costly. Moreover, when the “single” brake was used, the car-wheels wore out rapidly and had to be often renewed at much expense.

This invention was matured in October, 1846. It consists of a simple mechanism by which the brakes at both ends of the car are combined with each other, and also with both the windlasses on the car-platforms, so that a single brakeman, at whichever end of the car he may happen to be, can control all the brakes of the car at the same instant. It saves the employment of the extra brakeman referred to ; it causes the car-wheels to last much longer than formerly ; it prevents the necessity of “reversing” the locomotives, and by giving much greater control of the trains than the “single” brake it largely increases the safety of railroad-travel.

It is true, as was to be expected, that subsequent inventions have rendered this mechanism still more effective, but important railroads continue to use it just as it was patented, without finding these improvements essential.

The inventors were the memorialist Batchelder, and Thompson, the husband of the other memorialist. Both were poor mechanics, and destitute of the means to introduce the invention to the public and contend against infringers. They were therefore compelled, before the patent was granted, to sell a large interest in it, and were obliged to wait for payment until the proceeds of licenses should provide it. But the infringements were so persistent and the necessity for litigation so con-

tinuous, that during the whole of the first term of the patent they only realized about six hundred dollars each, and the person to whom they sold was compelled to dispose of his interest and abandon the business because the expense of contending against the infringers was too great for his means.

The patent was extended in 1866, but up to the present time the cost of sustaining it against infringers has been about \$10,000 more than all the receipts from it.

The evidence submitted to us is ample to show that extraordinary diligence has been displayed in the effort to obtain remuneration for the invention. The litigations have been long and thorough, and the novelty of the invention and the validity of the patent have been several times sustained in the courts. The evidence shows that while these litigations were proceeding it was impossible to realize but very little from the patent. This furnishes a strong argument in favor of the extension now sought, because considerably more than one-half of the extended term allowed by the Commissioner of Patents has been consumed in the last law-suit brought to vindicate the patent.

There can be no doubt that the invention is of great utility and value to the public, and that the remuneration to the inventors and their families has been insignificant. They are now, and always have been, in straitened circumstances, while the benefit to the public from the invention has been very great. One of the inventors, Thompson, died poor; but in view of the present condition of the litigation, it is probable that if the patent is extended the surviving inventor, Batchelder, and Mrs. Thompson, the widow, will obtain a reasonable return from it.

Your committee would say that while they are not ordinarily inclined to favor the further extension of a patent which has been once extended, they regard the present case as falling among the exceptions to this practice. They consider this application a highly meritorious one, and they therefore recommend that the patent be extended.



IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1873.—Ordered to be printed.

Mr. FERRY, of Michigan, from the Committee on Finance, submitted the following

REPORT:

The Committee on Finance, to whom was referred the "petition of merchants of New York, praying the enactment of a law to facilitate the discharge of cargoes of West India green fruit," report the same back adversely, for the reasons given in the following letter of the Secretary of the Treasury:

TREASURY DEPARTMENT,
Washington, D. C., January 30, 1873.

SIR: In accordance with your verbal request of this date I have the honor to inclose herewith copy of a letter addressed to Hon. Roscoe Conkling, United States Senate, under date of the 23d instant, in regard to the obtaining of "special permits" for the unloading of green fruit at the port of New York.

I am, very respectfully,

GEO. S. BOUTWELL, *Secretary.*

Hon. THOMAS W. FERRY,
United States Senate.

TREASURY DEPARTMENT,
Washington, D. C., January 23, 1873.

SIR: I have the honor to acknowledge the receipt of the communication of J. & T. Pearsall, addressed to you under date of the 16th instant, and by you referred to this Department, in regard to their obtaining "special permits" for the unloading of green fruit at New York.

In regard thereto I have to state that the subject-matter of this petition has been before presented to the Department, and the views of the importers were sympathized with to some extent by me. It is of course necessary, considering the perishable nature of this fruit, that it be unladen at the earliest hour practicable after it arrives; but, from a conversation recently had between the officers of this Department and the officers of the customs at New York, it was ascertained that the principal objection to granting these permits is that application therefor is generally made in advance of the arrival of the invoice or the bill of lading, or the presentation of any evidence to show the quantity or amount on board, or that any fruit is on board the vessel consigned to the applicant, and that if a permit is given under such circumstances it is necessarily unlimited as to quantity, and is therefore prejudicial to the revenue.

I understand that in all cases where the importers can present proper evidence in advance of the arrival of any vessel that they have green fruit on board, and the quantity thereof, that the collector readily grants these special permits. This would seem to be as far as the privilege should be extended, but if it is further to be extended it should be done by and with the authority of additional legislation.

This view sufficiently answers the question in your indorsement, "Is legislation necessary to enable the Treasury Department to do this."

Returning the inclosures of your letter,

I am, very respectfully,

GEO. S. BOUTWELL,
Secretary of the Treasury.

Hon. ROSCOE CONKLING,
United States Senate.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1873.—Ordered to be printed.

Mr. CRAGIN submitted the following

REPORT :

[To accompany bill S. 1224.]

The Committee on Naval Affairs, to whom was referred Senate bill 1224, for the relief of Howard F. Moffatt, have had the same under consideration, and ask leave to make the following report:

The petitioner served in the Navy continuously from July 31, 1861, until January 1, 1869, when he was honorably discharged, after a period of more than seven years' service, holding the ranks of mate, acting ensign, and acting master. His promotion, in 1862, was upon the recommendation of his commanding officer, for gallant conduct in passing the batteries of Vicksburgh, Mississippi, in which action he lost an arm.

On the 9th of November, 1869, he was appointed a mate, and has held that position till the present time, and now asks to be placed on the retired list of the Navy as a lieutenant, having acted in that capacity for five years together, as set forth in his memorial.

The committee have perused with pleasure the testimonials of Commodore Sands, Commander Alden, and Admiral Farragut, offered in behalf of this officer, all speaking in the highest terms of his bravery and patriotism. He is indorsed for his energy, probity, and faithful attention to duty, and, having been disabled in service faithfully and voluntarily rendered to his country, we cordially recommend that he be appointed on the retired list of the Navy, with the rank of master, and therefore report the bill with amendment and ask its passage.

REPORT

Presented to the House of Representatives

At the Session of 1877

REPORT

of the

Commissioners of the General Land Office

in response to a resolution of the House of Representatives, passed May 12, 1877, relating to the sale of the public lands.

WASHINGTON: GOVERNMENT PRINTING OFFICE: 1877.

The following report of the Commissioners of the General Land Office, in response to a resolution of the House of Representatives, passed May 12, 1877, relating to the sale of the public lands, is hereby published.

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1873.—Ordered to be printed.

Mr. BOREMAN submitted the following

REPORT:

[To accompany bill H. R. 1481.]

The Committee on Claims, to whom was referred the bill (H. R. 1481) for the relief of John C. Conner, have had the same under consideration and respectfully submit the following report:

That there is no evidence before the committee in support of this bill. The report thereon, by the Committee on Claims in the House of Representatives, and which accompanies it here, is as follows:

That at an election held according to law on the 30th day of November, 1st, 2d, and 3d days of December, A. D. 1869, Hon. John C. Conner was duly elected as a Representative from the second district of the State of Texas; that the certificate of election was duly issued to him, and the result of said election published by legal and competent authority before the expiration of thirty days after said election; that he remained at his home in Texas until late in February, 1870, following, and that during that time no notice of contest for his seat was served upon him or even intimated. He then came to Washington, and while here, in March following, more than three months after the election, and long after the expiration of the time allowed by law for service of notice of contest, he was served with such notice; that over his protest the committee entertained the contest for his seat; that he (Conner) employed attorneys at five different points in his district, and that over eighty witnesses were examined by him, many of them coming twenty or thirty miles for such examinations, and that the same was attended with large expense to Conner.

That the contestant took but little evidence, and totally failed to establish to the satisfaction of the committee any material allegation contained in his notice of contest; that the Committee of Elections unanimously reported against his right to the seat of Mr. Conner, and, it appearing that the contest was not made in good faith, but to harass and annoy contestee, and that the large expense incurred by Mr. Conner was necessary to the vindication of his legal rights; and the Committee of Elections of the Forty-first Congress considering the case, recommended that a portion of the same be returned to him.

There are numerous instances in the history of contested elections in the House of Representatives where the sitting and successful party to a contest has been reimbursed for expenses incurred, but it is not believed that any of them present more or stronger considerations of justice and equity than his.

The House need not anticipate a dangerous precedent in favorably considering this bill, as it differs from all others in being predicated upon a notice of contest served after the expiration of the time allowed by law for such service.

The House, by entertaining the contest, forced Mr. Conner to incur expenses in excess of the amount proposed to be returned to him. It is believed the claim is just and equitable, and your committee therefore recommend its passage.

It will be seen from the foregoing report of the House committee that the \$2,000 allowed Mr. Conner in this bill is to re-imburse him for moneys alleged to have been expended in defending his right to his seat in the Forty-first Congress, which expired on the 3d of March, 1871.

From the discussion of the bill in the House of Representatives, which may be found in the Globe, second session Forty-first Congress, 5th part pages 3630 to 3632, inclusive, it appears that Mr. Conner, being in his seat by reason of having received his certificate of election from the

proper authorities of Texas, successfully defended and retained the same, and received his full salary for the entire Congress. It seems, also, that the sole ground on which it is asked that the sum named in this bill shall be allowed him is, that while it appeared that the notice of contest had not been served within the thirty days prescribed by law, yet the contest was entertained by the House Committee on Elections, and Mr. Conner was thereby put to considerable expense in defending his right. It should not be forgotten, however, that any one who is admitted to a seat in Congress takes it knowing that it is liable to be contested, and, of course, accepts it with this understanding, as well as the consequences, whether of trouble or expense, which follow; and the committee fail to see, in the fact that such contest does take place, any obligation for the re-imbursement of the expenses thereof out of the Treasury, especially when it appears, as in this case, that the member asking relief was allowed to retain his seat and receive the full salary for the entire Congress.

The committee, therefore, report back the said House bill, with the recommendation that it be indefinitely postponed.

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 3, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 2805.]

The Committee on Claims, to whom was referred House bill 2805, "An act for the relief of J. T. Newcomer," submit the following report:

The purpose of this bill is to pay J. T. Newcomer the sum of \$150 for a horse belonging to him, impressed into the military service of the United States at Shelbyville, Tennessee, in November, 1864.

Mr. Newcomer alleges, in the memorial which was the basis of the bill, that the officer in command of the company for whose use his horse was impressed gave to him a certificate of the impressment and of the value of the horse, which certificate has been lost or mislaid.

From the report of the Secretary of War made in this case it appears that on the 12th day of August, 1869, Mr. Newcomer filed a similar claim in the office of the Quartermaster-General, and in that alleged that his horse had been taken in Bedford County, Tennessee, on or about December 15, 1864, by W. S. Jackson, acting quartermaster, Fourth Tennessee Mounted Infantry, and that a receipt was issued, which was placed in the hands of an agent for collection and by him lost. This claim was suspended January 28, 1870, for want of official evidence of the appropriation of the property and a bond of indemnity to protect the Government against the lost receipt. Up to the 7th of January, the present year, the evidence required by the War Department had not been furnished by Mr. Newcomer.

No evidence in support of the claim has been furnished this committee beyond the declarations of the claimant.

The committee therefore recommends the indefinite postponement of the bill.

IN THE SENATE OF THE UNITED STATES

REPORT

OF THE
COMMISSIONERS OF THE LAND OFFICE
IN RESPONSE TO A RESOLUTION PASSED BY THE SENATE
MAY 18, 1854
RELATIVE TO THE LANDS BELONGING TO THE UNITED STATES
IN THE TERRITORY OF ARIZONA
AND
THE LANDS BELONGING TO THE UNITED STATES
IN THE TERRITORY OF NEW MEXICO
AND
THE LANDS BELONGING TO THE UNITED STATES
IN THE TERRITORY OF CALIFORNIA
AND
THE LANDS BELONGING TO THE UNITED STATES
IN THE TERRITORY OF TEXAS
AND
THE LANDS BELONGING TO THE UNITED STATES
IN THE TERRITORY OF ILLINOIS
AND
THE LANDS BELONGING TO THE UNITED STATES
IN THE TERRITORY OF INDIANA
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THE LANDS BELONGING TO THE UNITED STATES
IN THE TERRITORY OF OHIO
AND
THE LANDS BELONGING TO THE UNITED STATES
IN THE TERRITORY OF PENNSYLVANIA
AND
THE LANDS BELONGING TO THE UNITED STATES
IN THE TERRITORY OF MARYLAND
AND
THE LANDS BELONGING TO THE UNITED STATES
IN THE TERRITORY OF DELAWARE
AND
THE LANDS BELONGING TO THE UNITED STATES
IN THE TERRITORY OF VIRGINIA
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THE LANDS BELONGING TO THE UNITED STATES
IN THE TERRITORY OF NORTH CAROLINA
AND
THE LANDS BELONGING TO THE UNITED STATES
IN THE TERRITORY OF SOUTH CAROLINA
AND
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IN THE TERRITORY OF GEORGIA
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IN THE TERRITORY OF ALABAMA
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THE LANDS BELONGING TO THE UNITED STATES
IN THE TERRITORY OF MISSISSIPPI
AND
THE LANDS BELONGING TO THE UNITED STATES
IN THE TERRITORY OF LOUISIANA
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IN THE TERRITORY OF MISSISSIPPI
AND
THE LANDS BELONGING TO THE UNITED STATES
IN THE TERRITORY OF LOUISIANA

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1873.—Ordered to be printed.

Mr. FERRY, of Connecticut, submitted the following

REPORT:

[To accompany bill S. 1522.]

The Committee on Patents, to whom was referred the petition of E. P. Torrey and William B. Tilton, for an extension of their patent for an improvement in door-springs, granted September 8, 1857, and re-issued February 10, 1863, respectfully report:

That on the 8th day of September, 1857, a patent was granted the petitioners for an improvement in door-springs, and the same was re-issued February 10, 1863.

That prior to the granting of said patent the said W. B. Tilton assigned all his interest therein to said E. P. Torrey.

That at the time said patent was granted the said Tilton resided in the city of New York, and remained a resident thereof until some time in the year 1868, when he removed to parts until recently unknown to said Torrey. That said Torrey was ignorant of said Tilton's place of residence, though he made frequent search therefor, until about the 5th day of January, 1872, and nearly five months after the expiration of the patent.

That not being able to ascertain the address of said Tilton, the petitioner Torrey made application to the Commissioner of Patents in his own name for an extension of said patent, and was denied such extension for the reason that said Tilton was not associated with him in said application.

The petition is accompanied by memorials executed by many of the leading hardware merchants of New York, Boston, and Philadelphia, asking that the prayer of Torrey and Tilton be granted.

IN THE SENATE OF THE UNITED STATES

Presented by Mr. [Name]

Mr. [Name] of [State], submitted the following

REPORT

[Text]

The Committee on [Topic], to whom was referred the petition of [Name], do hereby report, for an extension of their patent for an improvement in [Topic], granted to [Name] on [Date], and to [Name] on [Date], respectively.

That on the 1st day of September, 1875, a patent was granted to [Name] for an improvement in [Topic], and the same was in force on the 1st day of January, 1876.

That prior to the granting of said patent the said [Name] had already made all his interest therein to said [Name]. And at the time said patent was granted the said [Name] resided in the City of New York, and remained a resident thereof until about the year 1872, when he removed to Paris, France, and remained there until about the year 1874. That said [Name] was ignorant of said [Name]'s place of residence, though he made frequent searches therefor, until about the year 1875, and nearly five months after the expiration of the said patent.

That not being able to ascertain the address of said [Name], the said [Name] made application to the Commissioner of Patents in this case for an extension of said patent, and was denied such extension on the ground that said [Name] was not associated with him in said invention.

The petition is accompanied by [Text] as required by many of the [Text] hardware merchants of New York, Boston, and Philadelphia, and that the power of [Name] and [Name] be granted.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1873.—Ordered to be printed.

Mr. NORWOOD submitted the following

REPORT:

[To accompany bill S. 1523.]

The Committee on Revolutionary Claims, to whom was referred the memorial of Mrs. Ann Green and Mrs. Maria Bohrer, of the District of Columbia, asking to be allowed the arrears of half-pay claimed to be due to Lieutenant-Colonel Uriah Forrest, of the Maryland Line of the Revolutionary War, ask leave to make the following report:

That having had the same under consideration, from a careful examination of the evidence adduced, they beg leave to adopt the following report made by Mr. Johnston to the Senate at the third session Forty-first Congress, as expressive of their views:

IN THE SENATE OF THE UNITED STATES, January 23, 1871.—Ordered to be printed.

Mr. JOHNSTON made the following report, to accompany bill S. No. 1239:

The Committee on Revolutionary Claims, to whom was referred the memorial of Mrs. Ann Green and Mrs. Maria Bohrer, of the District of Columbia, asking to be allowed the arrears of half-pay claimed to be due to Lieutenant-Colonel Uriah Forrest, of the Maryland Line of the Revolutionary War, respectfully report:

That it appears from papers on file in the State Department, extracts from which accompany this report, that Uriah Forrest was a major in the Maryland Line; that his commission was dated 1st January, 1777; that he was afterward promoted to the rank of lieutenant-colonel, his commission dating 17th April, 1777, and that he remained in service as lieutenant-colonel until the close of the war; that the said Uriah Forrest died on the 8th July, 1805, without having received the half-pay due him under the resolution of Congress of the 21st October, 1780, and without having received the five years' full pay provided for by the law of 22d March, 1783, which declared that the officers who were entitled to half-pay for life might receive in lieu thereof five years' full pay in money or in securities bearing interest at the rate of six per cent.

It is proved by the affidavits of W. W. Corcoran, James Dunlop, and Anthony Hyde, filed with this report, that the memorialists, Ann Green and Maria Bohrer, are the daughters and only heirs-at-law of said Uriah Forrest.

The facts of the case are clearly established; there is no doubt in regard to the fact that Uriah Forrest was a lieutenant-colonel in the Maryland Line, and served to the close of the Revolutionary War. It is equally clear that the memorialists are his heirs-at-law.

The subject of the claims of officers and soldiers of the Revolutionary Army has been often before Congress. The last report made on the subject was made from this committee, on the 5th March, 1858, by Mr. Cragin. That report, and the various reports made part of it, are adopted as part of this report, to be printed with it.

It will be seen in all of them that the validity of claims of this character is fully recognized.

Your committee concur in the opinions and conclusions enunciated in those reports. The resolves of October 21, 1780, and other acts of Congress, promising half-pay for life to the officers of the Continental Army who should serve to the end of the war, formed a contract between Congress and the officers of the Army, founded upon a sufficient consideration, from which Congress cannot legally and justly retire. Lieutenant-Colonel Uriah Forrest performed the contract on his part: Congress should perform its part of the contract; and as Lieutenant-Colonel Forrest died without receiving either the half-pay due him under the resolve of October 21, 1780, or the five years' full pay in lieu of his half-pay under the act of March 27, 1783, then his heirs-at-law succeed to his rights, and are entitled to whatever was due to him at his death.

The resolution of Congress passed June 3, 1784, provides: That an interest of six per cent. shall be allowed to all the creditors of the United States for supplies furnished or *services done* from the time that payment became due. In the case of Doctor Baird *vs.* The United States, in which half-pay for life was claimed under the resolve of October 21, 1780, interest was allowed upon the demand, and the decision of the Court of Claims was approved by Congress, and the claim paid at the Treasury.

The committee, therefore, report a bill for the relief of the memorialists upon these principles, and recommend its passage.

IN THE HOUSE OF REPRESENTATIVES, March 5, 1858.

Mr. CRAGIN, from the Committee on Revolutionary Claims, made the following report:

The Committee on Revolutionary Claims, to whom was referred "A bill to provide for the final settlement of the claims of the officers and soldiers of the Revolutionary Army, and the widows and children of those who died in the service," respectfully report:

That, since the Revolution, the claims of the officer of the Continental Army for the half-pay for life, promised them by various resolutions of the Continental Congress, have frequently been before the committees of this House, and received their favorable consideration. At the last Congress a report was made from the Committee on Revolutionary Pensions, by Mr. Broom, (see House report No. 31, first session Thirty-fourth Congress,) in which the subject is so fully considered that the committee deem it unnecessary to enlarge upon the views therein expressed, but adopt it as a part of their report, to be printed therewith.

From an examination of that report, and various other documents relating to the subject, your committee have arrived at the following conclusions:

1. That the resolves of October 21, 1780, and other acts of Congress, promising half-pay for life to the officers of the Continental Army who should serve to the end of the war, or until the time of their reduction, formed a contract between the United States and the officers of the Army, in their individual capacity, at a time when both were free to make it, founded upon a good and valid consideration.

2. That the officers fully performed and fulfilled the contract on their part, and by their services, sacrifices, and sufferings, gained the liberty and independence of the country.

3. That on the performance of said contract each officer, as an individual, acquired a *vested right of property therein*, of which he could not be divested "*without due process of law*," or by his own free and voluntary relinquishment, and any act of Congress impairing or affecting this right is repugnant to the Constitution and void. Under this contract each officer became entitled from the United States to half-pay, according to the rank he held in the Army from the close of the Revolutionary War, or from the time of his discharge from the service until the period of his death, to be paid yearly and every year during that period, and for the performance of such contract on the part of the United States *the faith of the nation was solemnly pledged*. The committee also find that such officers were also entitled to an interest of six per cent. per annum on the yearly payments, and on the aggregate from the date of the officer's death to the time of settlement, under the resolution of Congress, passed June 3, 1784, which provides "that an interest of six per cent. shall be allowed to all the creditors of the United States for supplies furnished or *services done*, from the time that payment became due." In alluding to this resolve, Chief Justice Gilchrist, of the Court of Claims, in a recent decision says: "No language could be more express or free from doubt than this. The resolution was passed from a feeling that it was just and right that interest should be paid from the time the half-pay became due, and it was a voluntary contract on the part of the United States, constituting a legal claim against them which no subsequent legislation could release without the consent of the other party." The above contract for half-pay, although made under the Confederation, is equally binding upon Congress,

for, by the sixth article of the Constitution of the United States, section one, "all *debts* contracted or *engagements* entered into before the adoption of this Constitution shall be as valid against the United States under this Constitution as under the Confederation."

4. That on the 22d of March, 1783, an attempt to avoid the above contract and procure satisfaction thereof was made by Congress, under an act called the commutation act, by which it was proposed to commute the above life-annuities for five years' full pay.

5. This act was manifestly unjust in compelling individuals to abide by the decisions of the *lines* of the Army, and placing the old and young on an equal footing. An officer sixty years of age might well commute his life-annuity for ten years' half-pay in advance, while one of thirty would have a right, upon the principles which govern life-annuities, to estimate his life at a much longer period. It wholly deprived the officers as *individuals* of the right to determine whether they would accept or refuse, and the committee have not been able to ascertain that the officers, either by lines or as individuals, ever gave their assent to the commutation. But if, under the pressure of their poverty, (for be it remembered the Continental money in which their monthly stipends had been paid was nearly valueless,) they had assented, "it cannot be considered as a voluntary assent, but rather a submission to an uncontrollable and instant necessity, which admitted of no deliberation or delay." The resolve of Congress, an act of the Government, left them no choice except to abide by the decision of the *lines* and corps of the Army. They were entirely within the power of the Government, and could do nothing which presented better prospects for themselves.

6. The *money* was not paid, nor were the *securities* bearing an interest of 6 per cent. such as the act contemplated, or as the officers expected. The Government made no provision for the payment of either principal or interest of the commutation until long after the imperious necessities of the officers compelled them to part with the certificates for less than a year's pay. It is true, however, that paper certificates of service were issued by John Pierce, paymaster, payable to the officers or bearer, for five years' full pay, and many doubtless received them. They were worth, at the time of their issue, one-eighth of a dollar only; and not until after a period of about ten years, and most of them were in the hands of speculators, were they funded and paid by the United States. The loss of interest alone on the commutation of a captain, (\$2,400,) who lived to 1828, was \$2,536, and so in proportion to other officers; and this amount the Government saved by the commutation. (See Annals of Congress, vol. 4, part 1, for 1827-'28, page 441.)

"The commutation, then, is clearly liable to the following objections:

"1. That the commutation was not a valid accord and satisfaction for the half-pay for life.

"2. That it was so construed as to take away the rights of these officers under the resolve of October, 1780.

"3. Of not being an equivalent for the half-pay.

"4. Of not having been effected under circumstances and by the operation of motives which deprived it of all obligatory force.

"5. That according to strict legal construction, these officers did not commute their promised half-pay for life by accepting the so-called commutation-certificates; they in no respect having been in conformity to the act.

"6. Of partial execution."

7. The reports of Mr. Madison in 1783, Mr. Nelson in 1810, Mr. Johnson in 1818, Mr. Sergeant, December 10, 1819, Mr. Hemphill, January 3, 1826, Mr. Burgess, May 8, 1826, and February 11, 1828; the act of May 15, 1828, Senator Walker's report in 1852, Senator Evans's, February 4, 1854, and Mr. Broom, April 4, 1856, show a repeated recognition of the contract on the part of Congress; *but* no general provision appears to have been made by Congress for the relief of these officers until the act of May 15, 1828, in which the contract of 1780 is fully recognized. They are there acknowledged as *creditors* of the Government, and not pensioners. That act, however, applies to the few surviving officers only, and made no provision for those who died before its passage.

In the very able report of Mr. Burgess, made February 11, 1828, the committee says: "That, in their opinion, the delivery of those certificates, as well on general principles as on those which govern courts of law and equity, did not annul the right of half-pay, or exonerate the Government from the obligations of the original contract. Such of those officers as had survived the war, and continued in the service until peace, became severally and individually vested with a complete right to the reward of half-pay for the residue of their lives. The reward was gallantly won at the point of the sword; it was the price of our independence, purchased with blood, and secured by *public faith*."

The Senate's Committee on Revolutionary Claims, May 11, 1838, says: "After an assiduous investigation the committee conclude that no legislation subsequent to the 21st of October, 1780, could, or by a fair construction did, contravene or in any manner impair the claim of the officers of the Army, or any class of such officers, to the half-pay promised them by the act of October 21, 1780. The half-pay for life contracted by the

act of October, 1780, to be paid to the officers of the Army for certain services to be performed by them *instantly*, became a *vested right*, of which subsequent legislation, nor nothing whatever, could divest the officer, save a failure on his part to perform the service; and it would be a libel on the good sense and justice of the distinguished statesmen and patriots of that period to imagine even that any legislation subsequent to the 21st of October, 1780, had for its object to impair the deliberate engagements made by that act to allow half-pay for life to the officers of the Army."

Your committee are of opinion that the contract of half-pay has not been fulfilled on the part of the Government, nor have the claimants been guilty of laches or neglect, for they have again and again presented and urged upon Congress the payment of their just demands. The claimants had no way in which to enforce their rights, and could only sue for them in the language of solicitation. Their rights may, in fact, be said to have been suspended by the judiciary act of 1789, and were never restored until the act of February 24, 1855, organizing the Court of Claims. Since the establishment of that court the cause of Doctor Baird *vs.* The United States has been decided, in which he claimed half-pay for life, under the act of October, 1780, his commutation of five years' full pay having been paid by special act of Congress. The court, per Gilchrist, chief justice, decided that the petitioner was entitled to the half-pay for life, and that the acceptance of a less sum than the half-pay by way of commutation was no discharge of the original contract, the payment of a sum of money not being of itself a discharge of a debt for a larger amount, and adds: "A plea of payment of a small sum in satisfaction of a larger is bad even after verdict." (2 Parsons on Contracts, 130, and notes.) The case was conceded not to be within any of the acts of limitation. The court allowed the demand *with interest*, and their decision was approved by both Houses of Congress, and the money paid at the Treasury. The high character of the Court of Claims, and action of Congress in carrying their decision into effect, is a judicial and legislative construction and declaration of the rights of other claimants founded upon the same contract and governed by the same rules of evidence. Considering, then, the commutation certificates as not amounting to an accord and satisfaction, the claim of Doctor Baird and those embraced in the bill are governed by same principles.

The Union was formed "*in order to establish justice*," and in accordance with the beautiful precept of Christianity to "owe no man anything, but to render unto all their dues," and in obedience to the *Golden Rule* and laws of the land, we find that these officers and their heirs-at-law have a just, legal, and equitable demand against the United States; not a claim merely, but a subsisting demand, due *in presenti*, "a debt of honor which can never be discharged without payment." The committee, therefore, report the bill referred to them without amendment, and recommend its passage. It allows half-pay for life to the officers from the close of the Revolution to the date of their death, deducting therefrom all sums which have ever been paid to them by the Government by way of commutation or as *pay*, under the act of May 15, 1828. For the purpose of extending to the surviving children of the *soldiers* of the Revolution the benefits of the act of March 3, 1855, a section has been inserted for that purpose. The act referred to was doubtless intended to embrace their claims, but the word "minor" excludes them, as there are no "minor children" of the Revolution; and hence the necessity of further legislation in behalf of these meritorious claimants. The committee will add that bills embracing the principle contained in the bill herewith reported, so far as relates to the officers and their descendants, have passed the Senate and House of Representatives by large majorities, at different sessions of Congress.

The following is a synopsis of the bill:

SECTION 1 provides that the officers of the Army who were entitled to half-pay for life under the resolutions of Congress of 3d and 21st of October, 1780, 17th of January, 1781, 8th of May, 1781, and 8th of March, 1785, shall be entitled to receive the same, although such officer may have received, in lieu thereof, the commutation of full pay for five years, under the resolution of Congress of the 22d of March, 1783.

SEC. 2. That it shall be the duty of the proper accounting-officer of the Treasury, when applied to for that purpose by any one who by this act is entitled to receive, or his or her guardian, to ascertain what is due to such officer from the time he became entitled to said half-pay until the day of his death.

SEC. 3. That it shall be the duty of the Secretary of the Treasury, when the amount due to any officer has been ascertained as aforesaid, to pay the same, as hereinafter directed, after deducting therefrom the amount received for commutation under any special act of Congress, or under the resolution of March 22, 1783, and all sums received by such officer as *pay* or pension under the act of May 15, 1828.

SEC. 4. That the benefit of the resolution of the 24th of August, 1780, shall be extended to the widows and lineal descendants of all officers embraced therein who died in the service at any period during the war of the Revolution.

SEC. 5. Extends the benefits of the acts of March 3, 1855, and May 14, 1856, to the surviving children of the *soldiers* of the Revolution and persons provided for by those acts—(160 acres of land to the children of each soldier, &c.)

SEC. 6. The Secretary of the Treasury, under the direction and with the approbation

of the President of the United States, prescribe such rules of evidence as may be necessary to carry into effect the provisions of this act.

SEC. 7. All payments made by authority of this act shall be without interest.

SEC. 8. That in every case the said accounting-officer, before he shall order any claim to be paid, shall require satisfactory proof that the person or persons, in whose names the same may be presented, is or are the *bona fide* owner or owners thereof, and that the claim has not been sold, transferred, or mortgaged, or any part thereof, to any person or persons whomsoever; and all sales, transfers, mortgages, or pledges of any such claims are hereby declared void, and of no effect whatever.

SEC. 9. That surgeons' mates shall be entitled to the benefit of the resolution of the 17th of January, 1781, and receive the same pay as hospital physicians and surgeons.

SEC. 10. That all persons who apply for and receive the benefit of this act shall receive the same in full satisfaction of all claims under any of the resolutions of Congress hereinbefore recited, and for all losses alleged to have been sustained by depreciation in the value of the certificates received as commutation under the resolution of Congress of the 22d March, 1783.

SEC. 11. That all claims which shall be allowed under the first section of this act shall be paid to the officer, if alive; and if he be dead, to his child or children equally; and if there be none living, then to his grandchildren or children, or their descendants, the issue of any deceased child taking among them their share of the deceased parents, and, in case there be no lineal descendant, then to the next of kin of such deceased officer.

SEC. 12. That the Secretary of the Treasury, instead of paying directly, as provided for in section 11, may, in his discretion and under such rules and regulation as he shall prescribe, pay the claims allowed under this act to the administrator, executor, or curator of such deceased officer, for the sole and exclusive benefit of his child or children, or their descendants, or next of kin, to be distributed among them according to the provisions of section 11 of this act; and the same shall not be considered as part of the assets of said estate, nor applied to the payment of the debts of said estate in any case whatsoever.

SEC. 13. That all payments under this act shall be made in Treasury notes, bearing an annual interest at six per cent. from the time of their issue, and be redeemable at the pleasure of the Government of the United States.

SEC. 14. This act shall continue and be of force for the term of ten years and no longer; and all claims not presented, with the evidence for their adjudication, within that time, shall be forever barred.

SEC. 15. That the decision of the accounting-officer shall be final and conclusive.

IN THE HOUSE OF REPRESENTATIVES, April 4, 1856.

Mr. BROOM, from the Committee on Revolutionary Pensions, made the following report:

The Committee on Revolutionary Pensions, to whom were referred the petitions of divers persons, praying for the full benefit of sundry resolutions of the Continental Congress for the relief of the officers of the Continental Army, their widows and orphan children, and House bill No. 154, to provide for the settlement thereof, have had the same under consideration, and present the following report:

That they have carefully examined the memorials, and given the subject all the consideration which its importance demands. The incidents of the Revolution, the great results of that struggle for liberty, and the happiness conferred by its accomplishment upon millions of freemen, would occupy volumes. The history of the period shows that at the commencement of the contest, in 1776, the population of the country was exceedingly sparse, and Government so poor that many of the officers were obliged to arm and equip their own companies; and instances were frequent where their entire fortunes were devoted to the cause of their country. The Continental bills, in which their monthly stipends were paid, had so depreciated that at the close of the year 1780 they were almost valueless. The money which they actually received was wholly inadequate for their own wants, while their families at home were often destitute. Under these circumstances, the Commander-in-chief frequently presented to Congress the situation of the Army, and urged the necessity of having some permanent provision for such officers as would remain in the service to the end of the war. In one of his letters, addressed to Congress on the 20th of August, 1780, he says: "On the whole, if something satisfactory be not done, the Army (already so reduced in officers, by daily resignations, as not to leave a sufficiency to do the common duties of it) must either cease to exist at the end of the campaign, or it will exhibit an example of more virtue,

fortitude, self-denial, and perseverance than has ever yet been paralleled in the history of human enthusiasm. The dissolution of the Army is an event which cannot be regarded with indifference. It would bring accumulated distress upon us; it would throw the people of America into a general consternation; it would discredit our cause throughout the world; it would shock our allies. To think of replacing the officers with others is visionary. The loss of the veteran soldiers could not be repaired." In compliance with General Washington's recommendation, Congress, on the 21st day of October, 1780, passed a resolution in the following words: "*Resolved, That the officers who shall continue in the service to the end of the war shall be entitled to half-pay for life, to commence from the time of their reduction.*"

This resolution may well be said to have formed a contract between the Government and the officers at a time when both were free to make it, and its happy effect upon the Army was soon seen and felt. In a letter from General Washington to Congress, in 1783, he says: "That in the critical and perilous moment when the last-mentioned communication was made there was the utmost danger that a dissolution of the Army would have taken place, unless measures, similar to those recommended, had been adopted, will not admit of doubt; that the adoption of the resolution granting half-pay for life has been attended with all the happy consequences which I foretold, let the astonishing contrast between the state of the Army at this instant and at the former period determine." And in the same letter he urges, with eloquent appeals, that justice and good faith require that Congress should make provision for "the payment of all just demands of the Army."

When the promise of half-pay for life was made, the war had been in progress for five years, and it was uncertain how long it would continue; it might last for ten or twenty years, but the certainty of a competency to the officers after the contest should cease, although it afforded no immediate relief, cheered them on, and enabled them at length, at the risk of their lives, with the aid of their brave associates, and under the favor of Heaven, to perform the contract on their part, and achieve the liberty and independence of the country. The war closed in 1783, and, owing to the inability of Congress to pay the Army, it was furloughed first for six months, and then indefinitely; and in this way, as your committee are informed, the Army of the Revolution was disbanded. About that period, some dissatisfaction having arisen at the half-pay system, a proposition was made to commute the half-pay for life for five years' full pay; and, on the petition of seventeen officers only, Congress passed an act (see law of March 22, 1783) declaring that the officers who were entitled to half-pay for life might receive, in lieu thereof, five years' full pay in *money*, or securities bearing an interest at six per cent.; which commutation was to be accepted by *lines* and States, and not as individuals. This law, called the commutation act, was on its face unjust and unequal; for while an officer of sixty years of age would willingly commute his life annuity for five years' full pay in advance, another of thirty might reasonably estimate his life at a much longer period. No one will contend that Congress could annul, vary, or rescind the contract of half-pay for a less sum, without the assent of the officers as individuals; and the committee have been unable to ascertain that a majority of them, either by lines or as individuals, ever gave such assent. The effect of this arrangement was to subject the individual, as to his own particular rights, to the decision of others. If the officer had been left free to make his choice, and, having made it, the Government had given him what he freely consented to receive, he may have been concluded. But he was not so free. The resolve of Congress, an act of the Government, and a law, left him no choice but to abide by the decision of the lines and corps of the Army, or wait, whatever might be his wants, till a more fortunate period should enable him to approach that body, not with power to enforce his right, but only to sue for it in the language of solicitation. But if such assent was given, the offer to compromise was not fulfilled by the Government; for when the officers called for their "*money*" or specie at the Treasury, they were turned away with paper certificates, worth in gold and silver, on the day of their date, as the records abundantly show, only one-eighth of their nominal value. For instance, a lieutenant's full pay for five years was by commutation \$1,600, and that sum, in "*money*," in those days of severe economy, and when money was worth more than double its present value, would have enabled him to set out in life with reasonable hopes of a competency for himself and family; but when he came to realize that his certificates were worth only \$200, less than a year's pay, he could only lament the poverty and protest against the injustice of the Government in forcing them, as it were, upon him. There was no basis for them upon which to rest, nor any provision made for the payment of the principal and interest, until long after the imperious necessity of the officers compelled them to part with their paper for one-eighth of its nominal value. (See Senate report of January 3, 1826.) The certificates were, however, many years after the war, finally funded and paid by the United States; but it may well be said that the commutation law and proceedings under it were a violation of the contract as contained in the resolution of October 21, 1780, and that the officers were not bound or concluded thereby, either at law or in equity, beyond the amount received by them under it.

The claims of these officers have repeatedly been presented to Congress, and as often received favorable reports from committees of the highest character for learning and ability. The first report upon these claims was made by Mr. Madison, on the 23d of April, 1783, in which he fully recognizes their justice. Again, in 1810, a committee of the House declared, "*That the contract entered into by Congress with the officers of the Revolutionary Army, allowing them half-pay for life, has not been substantially complied with by our Government;*" and they recommend the following resolution: "*That the prayer of the petitioners is reasonable and ought to be granted.*"

No law was, however, passed at that session, and the war of 1812 soon followed; and the subject does not seem to have been considered again until 1818, when Mr. Johnson, from a select committee of the House to whom the subject was referred, made a report in favor of the memorialists.

On the 10th of December, 1819, another able report in favor of these claims was made in the House of Representatives by Mr. Sergeant, from the select committee to whom the subject was referred, in which, after reviewing the whole subject, he says: "It seems to your committee just and reasonable, and becoming the faith of the nation, to execute the contract originally made, upon the terms proposed by the memorialists; that is to say, of deducting from the arrears of half-pay, computed from the cessation of hostilities to the present time, the full nominal amount of the commutation certificate; and paying to the surviving officer the balance, and henceforward, during the remainder of their lives, paying them the half-pay stipulated by the resolve of 1780."

On the 3d of January, 1826, another report was made in the Senate in favor of these claims. Among other things the committee say: "By virtue of these resolves (the half-pay resolutions) a solemn contract between the Government and the officers was made. It originated and was consummated by the free and unbiased will of the parties, without surprise or compulsion on either side. It has been most gallantly performed by the officers, and, after a bloody conflict of eight years, and when the liberties and independence of their country were secured, following the example of the celebrated Roman, they retired with cheerfulness to their private citizenship.

"It seems to the committee that the performance of a contract on such an occasion, and especially one which has produced such boundless consequences, ought to be observed on the part of the Government with profound sanctity; and that nothing, therefore, but the free expression of the will of both parties, unaffected by necessitous circumstances, ought to be allowed to abrogate or rescind it."

At the same session, (1826,) Mr. Burgess, of Rhode Island, a statesman of great astuteness, made a favorable report; and the same member, on the 11th February, 1828, made another able report, though no definite action upon it seems to have been had. After an elaborate view of the subject, the committee remark: "The certificates had no funds whereon to rest, and their market-value was not equal to one year's pay. And it appears to your committee too much to say that the delivery of this almost valueless paper was a payment in money according to the sense of the offer, or that these certificates were the securities intended thereby, either according to the common understanding of the term, or the distinction expressly made in the resolve itself, between securities and certificates. * * * * * Under these circumstances, your committee, in the choice of alternative, are obliged to say that, in their opinion, the delivery of these certificates, as well on general principles as on those which govern in courts of law or equity, did not annul the rights to half-pay, nor exonerate the Government from the obligations of the original contract in this regard."

In 1852 this subject was again presented to the Senate, on the petition of the heirs of Lieutenant Benjamin Moore, and fully considered by the Committee on Revolutionary Claims, consisting of Messrs. Walker, of Wisconsin, James, of Rhode Island, Sumner, of Massachusetts, Foot, of Vermont, and Chase, of Ohio. They gave the subject the most careful and laborious examination, and the result of their labors may be found in the Senate report No. 164, first session 32d Congress, and its perusal is commended to those who desire a knowledge of the subject.

No definite or final action appears to have been had on said report.

On the 4th of February, 1854, the subject was again brought forward in the Senate by Senator Evans, of South Carolina, who made a very able report, accompanied by a bill, (No. 186,) which subsequently passed the Senate, but was not acted upon in the House. The Committee on Revolutionary Claims, to whom it was referred, agreed upon a report, a copy of which is herewith presented, but it was not made in the House, as the chairman (Hon. R. W. Peckham) states, "for lack of opportunity." The subject was again brought forward in the Senate, and a report made by Senator Evans—No. 7, 1st session 34th Congress, (present session)—accompanied by bill No. 109. The bill which the committee present proposes substantially to carry out the laws of the Continental Congress, by allowing the half-pay for life, without interest, from the close of the Revolution, in 1783, to the period of the officer's death, provided that event took place previous to March 3, 1826; but if after that time, then up to that day, deducting the full amount of the commutation certificates. The bill makes the amount which may be found due under it, in case of the officer's death, payable to the widow and children of

the officer equally; and if no widow, then to his child, children, or grandchildren, the issue of any deceased child taking among them the share of their deceased parents. The bill proposes to deduct from the half-pay to which any officer or his descendants are entitled the amount which has been received by way of commutation under a general or special act of Congress, and to pay the balance without interest. It also provides for those who were killed or died in the service. All those officers who died previous to 1793 will not derive any benefit under this bill, and its value to others will depend upon the time they lived after that period and the rank they held in the Army. The whole number of Continental officers entitled to half-pay, according to an estimate of Senator Evans, is about..... 2, 300

From which deduct for families which have become extinct, those who died previous to 1793, and those unable to make out their claims—say one-half..... 1, 150

Leaving the number to be provided for..... 1, 150

Assuming the half-pay of a captain as the average at \$240 per annum, and the lives of the officers at twenty years, ten years of which is covered by the commutation certificates, and it will require to pay these men and their representatives within the next ten years the sum of \$2,760,000, or, in round numbers, three millions. This sum, divided among 27,000,000, our present population, would require about one cent from each inhabitant to cancel the debt.

The annual amount which will be disbursed in the settlement of these claims will not exceed the sums which we have expended in payment of Revolutionary pensioners. Of the fifty-four thousand admitted to the rolls, only about seven hundred remain, and these are rapidly passing away. It is hardly necessary to go into a minute estimate of the sums which may be drawn from the Treasury under this bill; for, if the justice of these claims be admitted, it is refreshing to know that the income of our Government for about twenty days will pay them, to say nothing of the millions upon millions hoarded in our national Treasury and withdrawn from general circulation. We have abundant means to discharge these demands; and if they required the whole money in the Treasury we ought to pay them and relieve the nation of the solemn obligation which yet rests upon it.

The widows and children of these officers are scattered throughout the Union, and many of them are living in poverty, while some are supported by charity. And although a long period has elapsed since "these old creditors of the country" were entitled to their money, the delay cannot justly be attributed to them, for they have again and again urged, and will continue to urge, the payment of their just demands. Nor is there any want of record evidence of these claims, for the committee have ascertained that the public archives contain full and perfect returns of the name and grade of every officer embraced by the bill, together with the dates, numbers, and amount of his commutation certificates; and the records of Congress are replete with evidence that no payment to these men has ever been made. If it be said that these claims are barred by lapse of time, it may be answered that they have repeatedly been urged upon and recognized by Congress as just and due; and a noble nation never pleads the statute of limitations against its own citizens.

In the Senate report to which we have alluded, (No. 164,) the committee say: "The men who held the destiny of this nation in their hands have now nearly all passed away; yet there remains on the journals of Congress an unredeemed pledge of the national faith; the resolution of the 21st of October, 1780, stands unfulfilled on the part of the Government. The circumstances which prompted the passage of this resolution mark it as a monument of necessity and wisdom. That necessity emanated, not from want of patriotism in the officers, but from stern domestic obligations resting upon many of them toward their wives and parents, who were dependent on them for support, whose wants could not be supplied from their small stipends, irregularly paid, and these only in a depreciated currency. That resolution, though it relieved nothing of present necessity, gave confidence and hope for the future, and brought more zeal and energy to the defense of the national liberties. To evidence the necessity and wisdom of the measure, the committee refer to the testimony of General Washington, in a series of letters written to Congress at different periods, from 1778 to 1783, at whose instance the resolution of 1780 was evidently adopted. What its necessity, object, and utility were will fully appear in that correspondence. The current testimony of Congress, in numerous instances, corroborates all the documentary history of that period, awarding the praise and gratitude and solemn faith of the nation to the soldiers and officers of the Revolutionary Army. At that time it had nothing else to give, and with self-denial and sacrifice unparalleled in the history of the world, that Army, having successfully won by their arms the independence of their country, and for their patient endurance the admiration of the world, surrendered their half-pay annuities and suffered themselves to be disbanded and discharged, with a very small pittance of pay, and that in nearly a worthless medium, and return to their families and friends destitute of any adequate means to establish themselves in civil life. The committee deem it unneces-

sary to add anything to that which has been so well said in the reports and letters quoted, and concur in the sentiment *that good faith, justice, and honor demand that we no longer withhold payment from these old creditors of the country.*"

The committee further report House bill No. 154, referred to them, and recommend its passage, with the following amendments, to wit:

In section 5, 4th line, strike out the words "half-pay of a lieutenant of infantry," and insert in lieu thereof the words "same pay as hospital physicians and surgeons."

In section 9, strike out all after the enacting words, and insert the following: "That this act shall not extend to the case of any officer, or his representatives, who have received either half-pay for life or commutation in lieu thereof, under any special act of Congress."

In section 11, strike out all after the enacting words, and insert the following: "That all claims which shall be allowed under the first and fifth sections of this act shall be paid to the officer, if alive; and if he be dead, to his widow and children equally; and if there be no widow living, then to his child, children, or grandchildren; the issue of any deceased child taking among them the share of their deceased parent, and to no other persons."

HEIRS OF CONTINENTAL OFFICERS.

Report to accompany bill for the final settlement of the claims of the officers of the Revolutionary Army, and of the widows and orphan children of those who were killed or died in the service.

The Committee on Revolutionary Claims, to which sundry memorials on the subject have been referred, do, by their chairman, ask leave to report a bill for the final settlement of the claims of officers of the Revolutionary Army, and the widows and orphans of those who died in the service.

In reporting this bill and recommending its passage your committee respectfully submit the following statement and remarks:

The provisions of the bill are founded on certain resolutions of the Old or Continental Congress, and copies of those referred to in the first section of the bill are appended to this report.

It will be seen that they created a *solemn contract* between the Government and those officers who served to the end of the war, to the performance of which the faith of the Government and the nation was pledged.

It is admitted that that pledge has never been fully redeemed, and that most of that class of officers who performed *their* part of the contract have descended to the grave, leaving their widows and children to claim the fulfillment of it on the part of the Government.

The bill herewith reported proposes to accomplish that object, as far as circumstances will admit.

Your committee deem it unnecessary to enter into an explanation of the provisions of the bill, as they are sufficiently explained by the bill itself, in connection with the resolutions of Congress referred to in it.

It will be seen that the bill proposes to deduct from the allowance of half-pay (without interest) granted to the parties interested, the full amount of commutation certificates for five years' full pay issued under the resolution of March 22, 1783, in lieu of the half-pay promised by the resolutions referred to.

Your committee will not go into a history of the circumstances under which those commutation certificates were forced upon the officers to whom they were issued.

It is sufficient to say that the officers were induced by their poverty and necessities, and the condition of the finances of the Government and country, to accept them; and that, as is alleged, and your committee believe truly, owing to the same causes, they were compelled to part with those certificates at a great depreciation, and the original holders realized only about twelve and a half per cent. of their nominal value. But, as they were afterward paid by the United States at their full amount, it is deemed proper to deduct that amount from the claims for half-pay allowed by the bill.

The justice of the claims provided for by the bill has been repeatedly recognized in Congress by committees and distinguished members of both Houses.

In April, 1783, Mr. Madison made a report in their favor, in which he fully recognizes their justice.

Again, in 1810, a committee of the House of Representatives "*Resolved*, That the contract entered into by Congress with the officers of the Revolutionary Army, allowing half-pay for life, has not been substantially complied with by our Government."

Again, in 1818, Mr. Johnson, from a select committee of the House, made a favorable report on these claims. And in December, 1819, another able report in their favor was made by Mr. Sergeant.

Also, in January, 1826, another favorable report was made in the Senate; and at the

same session, and also in February, 1828, Mr. Burgess, of the House, made reports in favor of these claims.

In addition to this accumulation of opinions in their favor, may be added the fact that a large number of private acts allowing half-pay to certain officers of the class embraced in the bill have been passed by Congress at different periods since the Revolution.

But your committee beg leave to call the special attention of the House to the action of Congress in relation to claims for half-pay of certain officers of the Virginia State troops and navy and of the line of that State.

By the act of Congress of 5th July, 1832, the accounting-officers of the Treasury are required to liquidate and pay the accounts of the Commonwealth of Virginia against the United States, for payment to the officers commanding in the Virginia Line in the war of the Revolution, on account of half-pay for life promised the officers aforesaid by that Commonwealth, &c.

And the Secretary of the Treasury is required by the same act "to pay to the State of Virginia the amount of the judgments which have been rendered against the said State for and on account of the promises contained in an act passed by the legislature of that State in the month of May, 1779, in favor of the officers or representatives of the officers of the regiments and corps in said act of Congress mentioned, being officers belonging to the State troops or navy of Virginia."

Your committee refer to the act of 5th July, 1832, at large, for further particulars, with the remark that since Congress has provided for and paid the half-pay claimed not only by officers of the line of Virginia, but of the State troops and navy of that State, founded upon promises made by the *State*, it seems to be unnecessary to cite any other or stronger precedent in favor of the claims provided for by the bill reported by your committee, founded on similar promises made by the Congress of the *United States*.

It may be proper for your committee to submit some remarks upon the probable amount of the draught which may be made on the Treasury by the bill, if it becomes a law.

In reply to anticipated objections and exaggerated statements on this subject, your committee would respectfully refer to the estimates made by Senator Evans, in his speech in the Senate, upon a similar bill reported by him to that body.

That speech was reported in the "Congressional Globe" of 19th April last, (1854.)

The honorable Senator states that "the highest amount at which the officers of the Revolution have ever been estimated, was *two thousand four hundred and eighty*; but it does not appear from the books of the Treasury Department that more than *two thousand two hundred and fifty-six* have ever received commutation or half-pay."

He goes into a calculation to show that the average of the half-pay of all the officers would be two thousand four hundred dollars, after deducting, as the bill proposes, the commutation which has been received by each; and that "the largest amount, supposing that the descendants of all of whom we have any record come in and receive under the bill, will be five million five hundred and twenty thousand dollars."

He then goes into another calculation to show the number of officers whose widows or descendants may probably claim under the bill, and arrives at the conclusion that their number will not exceed seventeen hundred and twenty-five; and that if the descendants of every one of that number should apply, their claims upon the Treasury would not exceed four million one hundred and forty thousand dollars.

He also makes an estimate founded on the number of pensioners under the act of 15th May, 1828, "that the descendants of not more than twelve hundred and forty-four officers can now make any claim under this bill, and that 'the total amount necessary to be appropriated for the entire extinguishment of all the claims likely to come in under the bill, is two million nine hundred and sixty thousand six hundred dollars'—a little less than three millions."

Your committee have not tested the accuracy of the estimate made by Senator Evans by any calculation of their own; but, relying with great confidence upon his opinions and judgment in the matter, respectfully refer the results above stated to the consideration of the House.

If it be admitted, however, that the demands of *bona-fide* claimants under the bill should exceed even the highest estimate above made of the total amount, your committee apprehend that it would not be a sufficient reason for refusing to pay them.

With a full Treasury and an annual revenue of about seventy millions of dollars, there ought not to be any hesitation to pay a debt, the justice of which has been often acknowledged and never denied, and which has been repeatedly, within the last fifty years, asked for in vain until the present time.

Another consideration which may have some weight, in a financial point of view, in favor of the bill, is the rapid decrease in the number of revolutionary officers and soldiers, whose pensions, to a large amount, have been a charge upon the Treasury in years past.

The following facts on that subject, derived in part from the last report of the Commissioner of Pensions, is respectfully submitted:

The whole number of persons who have been pensioned under the act of 18th March, 1818, is about twenty thousand.

They are now reduced by death to only one hundred and seventy-five. The whole number pensioned under the act of 15th May, 1823, is believed to be about fifteen hundred. There are now only eighteen on the list under that act.

The whole number pensioned under the act of 7th June, 1832, is about thirty-four thousand, of whom only eight hundred and seventy-six remain on the list.

These are the only general laws under which the officers and soldiers of the Revolution have been pensioned; and according to the report of the Commissioner of Pensions there are only one thousand and seventy-five now living, to receive the bounty of their country, not one of whom can be less than ninety years of age. The total amount paid during the year ending September 20, 1854, according to the table B of the Commissioner's report, to these three classes of pensioners, was only \$75,445, instead of the millions annually appropriated and paid to them in former years. And your committee would remark, in connection with these facts, that the claims under the bill will not be an annual charge upon the Treasury, but, when once paid, are finally and forever disposed of.

In concluding this report, your committee abstain from making any appeal to the patriotic feelings or natural sympathies of the House; justice rather than sympathy is what the claimants expect, and what they have a right to demand in regard to these long-neglected claims.

But instead of any such appeal, your committee prefer to quote the language of the illustrious Washington, in relation to these very claims. In a letter dated at Newburgh, June 18, 1783, he thus expresses himself:

"That provision [alluding to the half-pay resolution] should be viewed as it really was, a reasonable compensation offered by Congress, at a time when they had nothing else to give to the officers of the Army for services then to be performed. It was the only means to prevent a total dereliction of the service; it was a part of their hire; I may be allowed to say it was the price of their blood and of your independence. It is, therefore, more than a common debt; it is a debt of honor; it can never be considered as a pension or gratuity, nor canceled until it is fairly discharged."

All of which is respectfully submitted.

MARCH, 1855.

The Committee on Revolutionary Claims agreed to the substance of the within report, but it was not made to the House at the last session, for the sole reason of a lack of opportunity to do so, after such agreement. In my judgment, the amount appropriated by the bill will be less than supposed by Senator Evans.

R. W. PECKHAM,

Chairman Committee Revolutionary Claims, last House of Representatives.

ALBANY, October 15, 1855.

Copy of the resolutions referred to in the first section of the bill.

RESOLUTION OF OCTOBER 21, 1780.

Resolved, That those officers who shall continue in service to the end of the war shall be entitled to half-pay for life, to commence from the time of their reduction.

RESOLUTION OF JANUARY 17, 1781.

Resolved, That all officers in the hospital department and medical staff hereinafter mentioned, who shall continue in service to the end of the war, or be reduced before that time, shall be entitled to and receive during life, in lieu of half-pay, the following allowance, viz: The director of the hospital equal to the half-pay of a lieutenant-colonel; chief physician and surgeon to the Army, and hospital physician and surgeon, purveyor, apothecary, and regimental surgeons, each equal to the half-pay of a captain.

RESOLUTION OF MAY 8, 1781.

Resolved, &c., That every chaplain deemed and certified to the board of war to be a supernumerary be no longer continued in service, and be entitled to have their depreciation made good, and to the half-pay of captain for life.

RESOLUTION OF MARCH 8, 1785.

Resolved, That officers who retired under the resolve of 31st December, 1781, are equally entitled to half-pay or commutation with those officers who retired under the resolves of 3d and 21st October, 1780.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1873.—Ordered to be printed.

Mr. FRELINGHUYSEN submitted the following

REPORT:

[To accompany bill S. 1524.]

Your committee, to whom was referred the claim of John H. Pendery for five hundred dollars, report:

That John H. Pendery is the surviving partner of the firm of Pendery & Gamble, attorneys, at Leavenworth, Kansas; that Louis V. Bogy was acting as special agent of the Department of the Interior, and had power to take such steps as were necessary to arrest the trespassers on the Delaware Indian lands in Kansas, including the right to employ counsel to prosecute suits for that purpose. He employed Pendery & Gamble, and this firm prosecuted several suits for the United States against the trespassers on the Delaware Indian lands, for the protection of timber of the United States. The Secretary of the Interior and the Commissioner of Indian Affairs, who have examined the claim, consider the amount of the claim to be reasonable, and recommend its payment.

They therefore report in favor of this claim, and recommend that this report and accompanying bill be printed.



IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1873.—Ordered to be printed.

Mr. ANTHONY submitted the following

REPORT:

[To accompany bill S. 1526.]

The Committee on Naval Affairs, to whom was referred the petition of William W. Low, a captain on the active list of the Navy of the United States, praying that the act of January 16, 1857, may be so modified that he may be allowed the difference between the pay he received and the pay of a lieutenant from the 14th day of September, 1855, to January 16, 1858, have had the same under consideration, and report as follows:

The petitioner was placed on the reserve list of the Navy as a master under the provisions of the act of January 16, 1857, and was subsequently brought before a court of inquiry, and by its decision restored to the active list with the rank of lieutenant, from the date of his retirement, viz, September 14, 1855.

By the construction given to the sixth section of the act of January 16, 1857, the claimant received only the pay of master on leave during the time of his retirement, although his commission on re-instatement to the active list gave him the rank of lieutenant to date from the time he was retired.

It appears that, by the interpretation given by the accounting-officers to the section above referred to, this claimant received only the pay of master, although holding the rank of lieutenant. The committee have not deemed it necessary to inquire into the justice or injustice done by the board of naval officers or the court of inquiry, for if the petitioner suffered a wrong by their recommendation, the President rectified it in exercising his power under the joint resolution of March 10, 1858, in restoring him with the advice and consent of the Senate.

This officer having been commissioned a lieutenant, the committee can see no good reason why he should not receive the pay of his proper rank, withheld as before stated, and therefore report the accompanying bill and recommend its passage.

IN THE SENATE OF THE UNITED STATES

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1873.—Ordered to be printed.

Mr. FERRY, of Connecticut, submitted the following

REPORT:

[To accompany bill S. 840.]

The Committee on Patents, to whom was referred a bill for the relief of Anson Atwood, beg leave to report :

That on or about the 15th day of May, 1847, Anson Atwood, then of the city of Troy, in the State of New York, now of the city of New York, obtained letters-patent for an improvement in cast-iron railroad-car-wheels, and on or about the 9th day of June, 1857, a re-issue of letters-patent for a part of this invention was granted. Also on the 22d day of September, 1857, two other letters-patent were re-issued on the other parts or residue of this invention. On the 27th day of April, 1861, the aforesaid letters-patent were extended for the term of seven years, from the 15th day of May, 1861.

Many years elapsed after letters-patent were granted for this invention before the railroad companies of the country could be induced to adopt the improvement, during which time the patentee was at great expense in manufacturing these car-wheels, and making experiments, as the railroads refused to put them upon the roads except at the expense of the inventor. After the great value and utility of the invention had been demonstrated, and the wheel came into general use, the patentee was compelled to consume his income in expensive litigation to protect his patent from infringement. He also suffered a severe loss from the destruction by fire of his machine-shops and patterns for manufacturing this car-wheel.

The extension of this patent in 1861 occurring at a time of embarrassment from losses which he had sustained and expensive litigation, and also at the beginning of the war, which rendered it almost impossible to prosecute infringements of his patent, on account of the absence of witnesses, furnished but very little remuneration to patentee.

After a careful examination of this case, your committee are satisfied the said patentee, without neglect or fault on his part, has failed to obtain from the use and sale of his invention a reasonable remuneration for the time, ingenuity, and expense bestowed upon it. Therefore, in view of the great security of life and property which this invention furnishes to railroad travel and transportation, your committee unanimously recommend the passage of the accompanying bill.

It appears from the evidence that the patentee has received only \$35,192, total amount of receipts from his invention; and that he has actually expended in litigation and expenses attending the same, together with \$3,000 for patterns, the sum of \$23,192 total expenses, leaving a balance of only \$12,000.

THE REPORT OF THE COMMISSIONERS

OF THE LAND OFFICE

FOR THE YEAR 1875

REPORT

OF THE COMMISSIONERS

OF THE LAND OFFICE

FOR THE YEAR 1875

OF THE COMMISSIONERS

OF THE LAND OFFICE

FOR THE YEAR 1875

OF THE COMMISSIONERS

OF THE LAND OFFICE

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1873.—Ordered to be printed.

Mr. FRELINGHUYSEN submitted the following

REPORT:

[To accompany bill S. 586.]

The Committee on the Judiciary, to whom was referred Senate bill 586, for the relief of Ellen Call Long, the only child and heir of Richard K. Long, deceased, respectfully report:

The petitioner, Ellen Call Long, asks Congress to pay her, as the representative of her father, \$8,563.37, with interest from January 18, 1847, because a jury impaneled to try a suit instituted in the district court of the United States for Florida, by the United States, against said Richard K. Call, rendered a verdict that the said amount was due, at the date referred to, from the United States to said Call.

Mr. Call was receiver of public moneys at Tallahassee, Florida, for more than ten years. The Government claimed that he did not account for the public funds in his hands and his salary was suspended, and in 1840 the United States instituted a suit against Mr. Call in the superior court of Florida Territory, for \$5,060.12. The defendant pleaded a set-off for \$15,250, consisting of four items, to wit:

1. For extra services in adjudication of pre-emption land claims, 1,460 days, at \$5 per day.....	\$7, 300
2. Clerk-hire for same time, at \$3 per day.....	4, 300
3. Extra services in adjudication of land claims in addition to 50 cents allowed by law, 1,825 days, at \$1 per day.....	1, 825
4. Clerk-hire for same time.....	1, 825
Total	<u>15, 250</u>

The account was presented to the proper accounting officer and disallowed; judgment was entered against the United States for \$7,923.72. The judgment was, of course, revised and a new trial ordered. In the mean time Florida was admitted as a State, and the cause was again tried before the United States district court for the northern district of Florida. A new and different set off was presented to the proper officer for \$18,460, and disallowed, and then pleaded, of which set-off the jury allowed the following items:

Amount paid register, salary third quarter 1825.....	\$125 00
Amount paid for office furniture.....	3 50
Amount paid Colonel R. Butler, second quarter's salary, 1827.....	1, 000 00
Amount paid Colonel R. Butler, first quarter's salary, 1833.....	1, 000 00
Amount paid William P. Duval, 1835.....	1, 000 00

Amount deposited first quarter 1831, Bank of Mobile.....	\$550 00
Amount deposited second quarter 1834, Central Bank of Florida.....	3,200 00
Amount deposited fourth quarter 1833, Bank of Mobile	200 00

And for the following offsets, to wit:

For legal services in fifteen mandamus cases at chambers, at \$100 each....	1,500 00
For attending three mandamus cases in superior court, \$50 each.....	150 00
For attending two mandamus cases in court of appeals, \$100 each.....	200 00
For adjudicating and revising pre-emption land claims, 939 days, at \$5 per day.....	4,695 00

13,623 50

Then deducting the claim of the Government for..... 5,060 13

Leaves a balance in favor of Mr. Call of..... 8,563 13

The committee are of opinion that this claim should not be allowed for the following reasons:

1. There is no proof, documentary or otherwise, of any indebtedness of the United States to Mr. Call other than the said verdict, and the only effect the verdict can legally have is to satisfy the claim made by the Government, and not to create an indebtedness against the United States.

2. The effect that a verdict might have in establishing an equitable or moral claim against the United States is destroyed by the fact that the set-offs made and relied on in the two suits were essentially diverse the one from the other.

3. It does not appear when Mr. Call died, but it appears that he was living in December, 1860, and there is no evidence that for the thirteen years after the rendering of this verdict he made claim on the Department. And in a copy of a letter without date, sent by Miss Long with the petition, written by Mr. Call to Mr. Woodbury, Secretary of the Treasury, he makes no claim that the Government is indebted to him.

4. The claims which the United States are called upon to pay existed nearly half a century since, were at the time disallowed by the Department, and are now unsustained by any evidence.

The committee recommend that the bill be indefinitely postponed.

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1873.—Ordered to be printed.

Mr. FRELINGHUYSEN submitted the following

REPORT:

[To accompany bill S. 836.]

The Committee on the Judiciary, to whom was referred Senate bill 836, entitled "A bill declaring the true intent of a statute," respectfully submit the following report:

The bill declares that the true intent and meaning of the second section of the act approved March 3, 1857, entitled "An act to settle certain accounts between the United States and the States of Mississippi and other States," is that Ohio, Indiana, and Illinois, not having received five per cent. of the net proceeds of the sale of public lands within their respective limits *in money*, shall have their accounts stated, both on the public lands and reservations, and such cash balance as has not been paid to said States shall be allowed and paid.

The object of the bill is that the United States shall state an amount with these States, and not charge against them expenditures, if any, made by arrangements with those States on their behalf, but only charge them with payments made them in money.

The States of Ohio and Indiana, respectively, make a claim against the United States of about \$400,000 each, and the State of Illinois claims about \$500,000, founded on law and facts as follows:

By the organic law admitting Ohio as a State, (April 30, 1802, 2 Stat., ch. 20, sec. 7, p. 175, and March 3, 1803, 2 Stat., ch. 22, sec. 2, p. 226,) it is provided that section No. 16, in every township, or its equivalent where such section has been sold, shall be devoted to the use of schools; that the six miles reservation containing salt springs shall be granted to the State for the use of the people; "and that 5 per cent. of the net proceeds of lands within the State sold by Congress shall be applied to the laying out and making public roads leading from the navigable waters emptying into the Atlantic, to the Ohio, to the said State, and through the same, such roads to be laid out with the authority of Congress, with the consent of the several States through which the road shall pass;" and the law further provides that the foregoing propositions are offered on the condition that, by an ordinance irrevocable without the consent of the United States, the State shall provide that each and every tract of land sold by Congress shall remain exempt from any tax laid by order or under authority of the State, whether for State, county, township, or any other purpose, for the term of five years ~~after~~ the day of sale.

Ohio accepted these propositions November, 1802, (1 Chase Stat., p. 74.) Congress, March 3, 1803, (2 Stat., ch. 22, sec. 2, p. 226,) relinquished to Ohio 3 per cent. of the said 5 per cent., to be applied by that State to making roads within the State, leaving 2 per cent. to be applied as aforesaid to what was afterward known as the "Cumberland Road."

The States of Indiana and Illinois were admitted into the Union under like organic laws.

The law relating to Indiana was passed April 19, 1816, (3 Stat., ch. 57, sec. 6, p. 289,) and provides that the 2 per cent. "shall be applied to the making of a road or roads leading to the said State under the direction of Congress."

The law relating to Illinois was passed April 18, 1818, (3 Stat., ch. 67, sec. 6, p. 430,) and provides that the 2 per cent. "shall be disbursed under the direction of Congress, in making roads leading to the State."

It is claimed on behalf of these States that the United States should now pay them, respectively, the two per cent. on the net proceeds of the sale of lands, for the following reasons:

1. Because these States, without such payment being made to them, are not treated with the same liberality that the United States extended to other new States.

2. Because the United States has relinquished and paid this two per cent. to some other States.

3. Because Congress, as it is claimed, by an act passed March 3, 1857, (11 Stat., ch. 104, p. 200,) directed the Commissioner of the General Land-Office to allow and pay the two per cent. to the three States named.

4. Because the United States has failed to fulfill its obligations to make a public road to the States in question.

I. The committee do not recognize the force of the argument that the United States should pay the two per cent. to these States that it may place its dealings with them on a more equal footing with that extended to States that have come into the Union since 1802. The Government of the United States has, in dealing with the new States, acted in its sovereign capacity, being influenced by considerations that had weight at the time, without attempting to treat them all alike. Thus it appears by the report of the Commissioner of the General Land-Office for 1870 that there has been great inequality in the land-grants made to these States. To Illinois there has been granted about six millions of acres, to Kansas three and a half millions, to Michigan thirteen and a half millions, and to Oregon less than six millions; and by the act of September 4, 1841, (5 Stat., ch. 16, sec. 8, p. 455,) States coming into the Union after that date are each to have a grant of five hundred thousand acres.

There is no obligation on the United States, neither would it be possible, to equalize the advantages the several States have or should receive from the General Government.

II. It is true that the United States have paid this two per cent. to some of the States. When Louisiana was admitted into the Union in 1812 (2 Stat., p. 701) the United States agreed to pay over the whole five per cent. of net proceeds of sale of the lands in that State, to be applied by the State to protect the levees. The interests of the State, which were identical with those of the Union, rendered such a provision proper.

And when Arkansas (5 Stat., p. 58) and Michigan (5 Stat., p. 60) were admitted, the United States agreed to pay them, respectively, the whole five per cent., to be applied by those States to roads and canals within their boundaries; the States entering into stipulations as to exemptions

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from taxation among others not to tax bounty-lands, &c. There would have been little propriety in 1836, when those States were admitted, and when railroads had been introduced, in the United States reserving two per cent. on sale of lands to apply to the construction of wagon-roads leading to those States.

When Mississippi was admitted, March 1, 1817, (3 Stat., p. 349,) it was provided that the two per cent. "should be applied to the making of a road or roads leading to the said State under the direction of Congress."

And when Alabama was admitted, March 2, 1819, (3 Stat., p. 491,) the same provision was made.

The United States did not apply the two per cent. or any part of it to making roads leading to either of those States. A plan for a system of internal improvement, including the Maysville road, having been adopted by Congress, was vetoed by President Jackson.

The United States relinquished the two per cent. to Mississippi on the terms set out in an act passed September 4, 1841, (5 Stat., p. 457,) to be paid in two installments, one in 1842 and one in 1843, so far as it had then accrued, and quarterly thereafter as the same should accrue; *provided*, the State accept the same in full relinquishment of the fund, and that the whole two per cent. fund be applied by the State to the construction of a railroad from Brandon to the eastern boundary of the State in the direction as near as may be of the towns of Selma, Cahaba, and Montgomery, in the State of Alabama. And the United States, by the same act, relinquished the two per cent. fund to the State of Alabama on condition that the money be applied to the construction of a continuous line of internal improvements across the State of Alabama in a direction to Jackson, in the State of Mississippi. The United States had made no application of the money as stipulated, and very properly devoted it to a purpose similar to the original design.

The organic law admitting Missouri, March 6, 1820, (3 Stat., p. 547,) provided that two per cent. of the net proceeds of the sales of lands within that State should be applied to defraying, under the direction of Congress, the expenses to be incurred in making a road or roads, canal or canals, leading to the said State. Missouri having, November 19, 1857, appropriated the two per cent. to the construction of certain railroads in the State, Congress having expended none of the funds for a national road in Missouri, assented thereto, by an act passed February 28, 1859, (11 Stat., p. 388,) and relinquished that fund to the State.

Thus it appears that the United States did permit Louisiana to receive its two per cent., because it was needed for levees; that the two per cent. was not exacted of Arkansas or Michigan for the purposes of public roads, because the States were admitted after the introduction of railroads, and they were permitted to use the fund for roads and canals in those States respectively; and that the United States relinquished to the States of Mississippi, Alabama, and Missouri the two per cent. fund, to be applied by those States respectively in their own internal improvements, because the United States had made no expenditure in those States for the purpose indicated in the organic law. And other new States, inasmuch as the United States did not undertake to apply any of the five per cent. to improvements for their benefit, have been permitted to receive the whole five per cent. These considerations, it will hereafter appear, cannot be urged as reasons why the United States should pay to the States of Ohio, Indiana, and Illinois the two per cent. fund claimed by them.

III. The committee have examined the statute of March 3, 1857, (11

Stat., p. 200,) which is claimed to authorize the relinquishment of the 2 per cent. to these States, and do not think that it has that effect.

In the State of Alabama there were reservations under several treaties with Chickasaw, Choctaw, and Creek Indians; but, as it was not just that Alabama should be deprived of its 5 per cent. on such lands by reason of said treaties, Congress, by an act entitled "An act to settle certain accounts between the United States and the State of Alabama, approved March 2, 1855, (10 Stat., p. 630,) directed as follows: *

That the Commissioner of the General Land-Office be, and he is hereby, required to state an account between the United States and the State of Alabama, for the purpose of ascertaining what sum or sums of money are due to said State, heretofore unsettled under the sixth section of an act of March 2, 1819, for the admission of Alabama into the Union; and that he be required to include in said account the several reservations under the various treaties with the Chickasaw, Choctaw, and Creek Indians within the limits of Alabama, and allow and pay to the said State five per cent. thereon, as in case of other sales.

It cannot be claimed that if the United States had expended the two per cent. in constructing a road leading to Alabama, according to the stipulation made with that State when admitted to the Union in 1819, (3 Stat., p. 491,) that Congress would have passed this statute, or that, having passed it, that the Commissioner under its direction, "in stating an account between the United States and the State of Alabama for the purpose of ascertaining what sum or sums of money are due to that State heretofore unsettled, under the act of March 2, 1819, for the admission of Alabama into the Union," would have omitted to charge Alabama with the amount of the two per cent. so expended in constructing such road. The two principles which, by the act of March 2, 1855, the Commissioner was to be governed in settling with Alabama were: First, to ascertain what sum was due that State on an account stated, and what were unsettled; second, to allow that State for lands on this reservation at the rate of \$1.25 per acre, the same as public lands.

There being in the State of Mississippi lands acquired by the United States from the Indians by the treaty of October 30, 1836, it was enacted by Congress that Mississippi should be allowed the five per cent. on the sales of those lands. (5 Stat., p. 116.) And on March 3, 1857, (11 Stat., p. 200,) it was further enacted that an account be stated by the Commissioner of the General Land-Office between the United States and Mississippi, to ascertain the sum due the State on account of the public lands, upon the same principles of allowance and settlement as prescribed in the act "to settle certain accounts between the United States and the State of Alabama," approved March 2, 1855, and that he be required to include in said account the several reservations under the various treaties with the Chickasaw and Choctaw Indians within the limits of Mississippi, and allow and pay to the said State five per centum thereon, as in the case of other States, estimating the land at the value of \$1.25 per acre."

And then comes the section insisted on as directing the payment of the two per cent. to Ohio, Indiana, and Illinois:

"SEC. 2. *And be it further enacted*, That the said Commissioner shall also state an account between the United States and each of the other States upon the same principles, and shall allow and pay to each State such amount as shall thus be found due, estimating all lands and permanent reservations at \$1.25 per acre."

Neither the State of Mississippi nor Alabama acquires its right to the relinquishment of the two per cent. from the act of 1855 or the act of 1857, above referred to, but from the act of September 4, 1841, (5 Stat., p. 457;) because the United States had failed to apply the two per cent.,

to the construction of a road leading to those States as it had stipulated to do, as before stated.

By the act of 1857, the accounts with all the States are to be stated on the "same principles" as provided in the acts of 1855 and 1857, relating to Alabama and Mississippi; that is: first, an account is to be stated for the purpose of ascertaining what sum or sums of money are due to each State, and unsettled; second, the two States, if they contain Indian reservations, are to be allowed on those lands as if they had been sold at \$1.25 per acre, and each State is to be paid the amount found due, if any. The amount due and to be paid is not affected by the second section of this statute of 1857, otherwise than the allowing 5 per cent. on the Indian lands, valued at \$1.25 per acre, affects the amount to be found due.

IV. Neither do the committee consider that the United States has so failed to perform its stipulations with Ohio, Indiana, and Illinois, as to entitle those States, or either of them, to be paid the two per cent. in question.

If we treat the organic law by which these States were admitted into the Union as strictly a contract, and one over which the sovereignty of which these States are members had no discretionary power, and passing by the fact that nearly seventy years have elapsed since the arrangement was made, it still appears that the agreement has, in substance, been performed by the United States.

A most valuable and expensive road, from the navigable waters emptying into the Atlantic, was laid out and made to the Ohio, and through the State as far as Springfield, and was laid out through the State and through the States of Indiana and Illinois, and constructed and perfected. This road, in the language of the compact, "leading to the Ohio, to the said State, and through the same," "leading to the States" of Indiana and Illinois, has been a vast benefit to those States, and although not completed through the last-named States, was a road leading to them. The United States, although receiving from the two per cent. fund of these three States only about \$1,100,000, has paid from its Treasury in this work \$6,760,400.07, and has surrendered to those States respectively such portions of the road as are situated within their respective boundaries. The United States would undoubtedly have gone on and perfected the said road, had not the introduction of railroads rendered its completion desirable to no one.

The United States has not only substantially complied with the compact; it has done so literally. It is said the road was not perfected entirely through the State of Ohio, and not completed, according to the liberal purpose of the United States, through Indiana and Illinois. Inasmuch as the United States gave up the completion of the road, after so large an expenditure, only because of a change of circumstances, which made the completion of the road unnecessary, it seems quite technical to urge that the United States has not complied with the letter of the compact. But it has complied even with the letter. It was not stipulated (though that clearly was the purpose) that a road should be made through Ohio, or to Indiana, or to Illinois. The United States held for these States the position of a trustee of this two per cent. fund, and agreed, in the language of the stipulation with Ohio and Indiana, that the fund should "be applied to the laying out and making roads leading," &c., and, in the language of the stipulation with Illinois, "that the fund should be *disbursed* in making roads leading," &c. Now this fund has been so "applied," and so "disbursed." The two per cent. fund for Ohio and Indiana is about \$400,000 for each State, and for

Illinois about \$500,000; and the United States has applied and disbursed in the construction of the road provided for as aforesaid, according to the statement of the promoters of the bill, which is sufficiently correct for our purpose, as follows: In Ohio, \$2,077,631.06; in Indiana, \$1,128,289.50; and in Illinois, \$742,445.30.

It can hardly be insisted that the United States has not applied the trust-fund according to the contract; and after it has applied to this work a sum so largely in excess of the fund, creating a highway which the country knows was, in early days, of great service to the West, and only abandoning the completion of the road from a change of circumstances which rendered the prosecution of the work undesirable to all, one is at a loss to see any just claim these States at this day have to be again paid the money which has been expended by the United States, according to the contract, for their benefit.

If the States of Ohio, Indiana, and Illinois, having had the two per cent., and vastly more, applied to the construction of a road leading to those States, are now entitled to receive the two per cent., then Mississippi and Alabama, who have not had the two per cent. applied to the construction of a road leading to those States, as stipulated in the enabling act, but have received the two per cent., are entitled to have the road constructed, or its equivalent in money, which no one will claim.

The committee recommend that the bill be indefinitely postponed.

FRDK. T. FRELINGHUYSEN.

GEO. F. EDMUNDS.

ROSCOE CONKLING.

M. H. CARPENTER.

GEO. G. WRIGHT.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1873.—Ordered to be printed with Report No. 380.

Mr. THURMAN submitted the following as the

VIEWS OF THE MINORITY.

We cannot concur in the conclusions arrived at by the majority of the committee. We do not think that, upon a correct interpretation of the act of March 3, 1857, it is admissible to set off against the claims of Ohio, Indiana, and Illinois, the amounts expended by the Government in the construction of the Cumberland Road, or, as it is more properly called, the National Road. The appropriations for that road up to 1818, inclusive, amounted to \$250,000, and were declared to be payable out of the two per cent. fund of Ohio. After 1818, no such declaration is found. Thenceforth Congress seems to have considered the road a national work, to be paid for out of the Treasury. Indeed, it never was such a road as was contemplated in the enabling acts of said States. No part of its cost has ever been charged in the accounts of the Treasury to either of the three States named. And in 1857 justice to those States, in view of what had been before then granted to other new States, required that they should not be charged with any part of the cost of constructing that road. And such we believe was the view taken by Congress in passing the act of 1857. Hence Congress subsequently required her whole two per cent. to be paid to Missouri without deduction for any expenditure upon said road. We perceive no difference in principle between the case of Missouri and that of either of the States of Ohio, Indiana, and Illinois. In our judgment the bill should pass.

A. G. THURMAN.
JOHN POOL.

IN THE SENATE OF THE UNITED STATES

REPORT

OF THE COMMISSIONERS OF THE GENERAL LAND OFFICE

REPORT

IN RESPONSE TO A RESOLUTION OF THE SENATE

ADOPTED FEBRUARY 2, 1875

THE COMMISSIONERS OF THE GENERAL LAND OFFICE, in response to a resolution of the Senate, adopted February 2, 1875, have the honor to submit herewith a report on the subject of the lands of the United States, and on the progress of the work of the General Land Office during the year ending on the 31st of December, 1874.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1873.—Ordered to be printed.

Mr. FERRY, of Connecticut, submitted the following

R E P O R T :

[To accompany bill H. R. 2518.]

The Committee on Pensions, to whom was referred House bill 2518, an act granting a pension to George W. Swartz, respectfully report:

That said Swartz was mustered into service for one hundred days as private, May 15, 1864, and was mustered out about September 1, 1864. That while in the service a disease of the eyes developed itself, the result of a cold contracted in the line of duty, which has since resulted in total blindness. The Pension-Office is prevented by technical difficulties from granting the pension.

The committee report in favor of the passage of the bill.

IN THE SENATE OF THE UNITED STATES

Testimony of [Name] before the Committee on [Topic]

IN SENATE, [Date]

REPORT

OF THE COMMITTEE ON [Topic]

The following is a summary of the testimony given by [Name] before the Committee on [Topic] on [Date]. [Name] testified that [Topic] is a [Topic] and that [Topic] is a [Topic]. [Name] also testified that [Topic] is a [Topic] and that [Topic] is a [Topic]. [Name] further testified that [Topic] is a [Topic] and that [Topic] is a [Topic]. [Name] concluded by stating that [Topic] is a [Topic] and that [Topic] is a [Topic].

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1873.—Ordered to be printed.

Mr. HAMILTON, of Texas, submitted the following

REPORT:

[To accompany bill H. R. 2534.]

The Committee on Pensions, to whom was referred the bill (H. R. No. 2534) granting a pension to Cornelia C. Dougherty, have had the same under consideration, and submit the following report:

The papers in the case fully establish the following facts, to wit: That the said Cornelia is the widow of Charles Dougherty, late a private in Company I, Second Regiment Maine Volunteers, and also late a private in Company D, Thirtieth Regiment Maine Volunteers, whose name was placed on the pension-roll, on October 12, 1865, on account of disabilities contracted in the service and the line of duty. The rate per month was increased under the act of 6th June, 1866, to \$15 per month, his disability being pronounced total, equivalent to the loss of a hand. That the said Dougherty was drowned at Milford, in the State of Maine, on July 5, 1869. That the widow is in extreme poverty with four children, the eldest being near eighteen years old, and the other three under sixteen. An unsuccessful application was made to the Commissioner of Pensions to have the pension extended to the widow. She presents her claim here with the greater confidence, because of the general belief in that vicinity that her husband lost his life in consequence of the disability under which he labored. This opinion is embodied in an affidavit signed by some six or seven reputable persons who knew the said Dougherty, before he went into the service, to be an expert swimmer, and who were present when he was drowned. Whether the opinion thus expressed be correct or otherwise seems to the committee quite immaterial. If the widow and children were mainly dependent for support upon the pension granted to deceased, of which there appears to be little doubt, as the disability was *total* according to the certificate of the examining surgeon, it could make little difference whether he lost his life in consequence of the disability under which he labored, as alleged, or whether he died a natural death. In either case they are deprived of their means of support, and the committee are unable to find any argument in favor of a widow or minor children whose means of support were cut off by the death of husband or father in the service, or afterward of wounds or disease contracted therein, which will not apply to the applicant in this case.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1873.—Ordered to be printed.

Mr. SAULSBURY submitted the following

REPORT:

[To accompany bill H. R. 2527.]

The Committee on Pensions, to whom was referred the bill (H. R. 2527) granting a pension to Deborah Witham, submit the following report :

Mrs. Deborah Witham is the mother of Alvah C. Witham, who was a private in Company K, Thirty-second Regiment Maine Volunteers, and was severely wounded at the battle of Coal Harbor, and died from said wounds. The said Alvah left, to survive him, two children, who never received any pension, and are now over the age of sixteen years. The mother asks to be allowed a pension, alleging that she is very old and infirm, and was dependent on her said deceased son in his life-time for support. The committee recommend the passage of the bill.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 2522.]

The Committee on Pensions, to whom was referred the bill (H. R. 2522) granting a pension to Judith Dunham, submit the following report :

Mrs. Dunham, the beneficiary of this bill, is the mother of George L. Dunham, who entered the military service of the United States on 15th June, 1861, and was mustered as a sergeant in Company C, Seventh Regiment Massachusetts Volunteers, to serve three years or during the war.

In accordance with orders from headquarters Army of the Potomac, of February 10, 1862, young Dunham, with several comrades belonging to his command, was detached to serve on western gun-boats.

The muster-out roll of his company, dated June 27, 1864, reports him: "Sergeant; died of disease while on detached service, on board of a gun-boat, February 6, 1863." The evidence from the War and Navy Departments shows his death at this period, and the proof otherwise establishes that it occurred on board the gun-boat Cincinnati, of which he was carpenter's mate, while she was lying in the Mississippi, opposite the mouth of Yazoo River. He died of chronic diarrhœa, and the preponderance of evidence is that the disease was contracted while his command was in camp at Brightwood, near Washington City, shortly before his transfer to the naval service. To this complaint were added chills and fever while doing duty on the western waters.

There seems to have been some doubt, while the case was pending in the Pension-Office, whether the disease of which young Dunham died was contracted in the Army or Navy. In our view of the matter, this is now an immaterial question. There was also some trouble about discrepancies and variances in the proofs. It seems that Mrs. Dunham had collected back pay up to the 23d day of February, 1863, on proof that her son died on that day. And, again, some of the witnesses, at one time, expressed the opinion that Dunham contracted the disease of which he died while he was in the naval service, while now they date the origin further back, to the period when he was serving with his regiment, and lying upon the ground. In our opinion, this question is an immaterial one in the present phase of the case, as the preponderance of proof is that he did contract the chronic diarrhœa while he was performing duty with his company. That he died in the service of the United States, and in the line of duty, and from disease contracted while in the service, there is, in our opinion, no reason to doubt. He is shown to have been a well

and robust young man when he entered the service. The proof that, both before joining the Army and afterward, he contributed to his mother's support, and that she was dependent upon this support, is satisfactory. He remitted to her about half his pay from the Army. She is now old and poor.

The claim seems to have been rejected February 8, 1870, under section 6, act of July 4, 1864, because the proofs were not completed within five years, and there was no record-evidence of the cause of his death. The application was filed July 2, 1863.

The committee recommend the passage of the bill.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 2431.]

The Committee on Pensions, to whom was referred the bill (H. R. 2431) granting a pension to John Davis, corporal of the night-watch on board the United States ship Octorora, submit the following report:

This case was for some years in the Pension-Office, and rejected on the 9th of May, 1870. There is no dispute about the enlistment of Davis in the Marine Corps on 24th August, 1862, and his discharge on the 6th of October, 1865.

The following is the brief of the testimony as made up at the Pension-Office, and supersedes the necessity of reviewing at length the papers, which are very numerous:

Claimant states that on the night of the 1st of August, 1864, when lying off Mobile, Alabama, * * * he was ascending the ladder connecting the two decks, to report to the officer of the watch, when he struck his leg against the step of the ladder, causing a slight fracture of the tibia. He received a slight treatment from the surgeon on board, but soon it grew worse, and he was obliged to confine himself to quarters.

Certificate of disability, signed by Surgeon Thomas L. Smith, United States Navy, states:

Secondary syphilis: Assistant Surgeon L. Zeiger states, "There is no evidence that it originated in line of duty."

Bureau of Medicine and Surgery, April 9, 1867, states:

"John Davis, marine, admitted with secondary syphilis. There is no evidence that it was in line of duty; the facts being as follows, viz: Patient dates his disease from an injury received some twelve months ago while on duty. Denies any previous syphilitic infection. Disease appears of an undoubtedly syphilitic character, even granted that the local affection of the leg should have been caused by an external injury. Symptoms of the tertiary form, nodes at left tibia and sternum, an eruption, induration of inguinal ganglia," &c.

Examining-Surgeon I. Cumiskey, April 18, 1867, states:

"Applicant states that he injured the left tibia by striking it against a ladder, while on United States gun-boat Octorora, some time in July, 1864. He suffers much from extensive necrosis of tibia, and exfoliation is still going on. He is quite lame, and suffers much pain therefrom. He positively denies ever having had syphilis. No nodes are apparent at the sternum or on either tibia. I am not prepared to deny positively the syphilitic origin of the necrosis, but believe the injury or active cause might be followed by just such results under certain favorable circumstances; for instance, a long cruise, improper diet, badly ventilated ship, &c.—in a word, any circumstances that favor the impairment of the health."

October 15, 1869, claimant states that "he was operated upon (first time) by Dr. Agnew at Philadelphia, March, 1866, at which time a quantity of decayed bone was removed. Was again operated upon, November 14, 1866, by Dr. Pancoast. A third operation was performed by Dr. Pancoast at Jefferson Medical College in November, 1867. A fourth operation was performed at the Blockley Hospital by Dr. F. F. Maury in

April, 1868. A fifth operation was performed by Dr. Packard at the Soldiers' Hospital, January 12, 1869, when the whole of the tibia, from two or three inches below the knee to within a short distance of the ankle, was removed."

On the 26th of May, 1869, the limb was amputated by Dr. Packard at the Soldiers' Home.

March 11, 1867, Dr. D. Hayes Agnew states: "I have never been able to ascertain the disease of John Davis as one depending or in any way connected with syphilitic taint, but regarded it as a case of osteitis from external violence."

Dr. W. H. Pancoast states: "Mr. John Davis has been under my care in the Philadelphia Hospital, and I fully concur in the above opinion."

Dr. W. H. Pancoast, surgeon in Philadelphia Hospital, August 5, 1869, states: * * * "I considered the tibia to be in a condition of caries, due, according to the best history I could obtain, to a blow upon the leg while the patient was in the United States naval service, and to a strumous condition of his constitution."

April 13, 1869, Dr. John H. Packard, Soldiers' Home, Philadelphia, certifies that "John Davis has been under my charge since January 12, 1869, for disease of the bones of the leg, caused by an injury. I operated on him, removing a good deal of diseased bone. In my opinion the disease is owing to no intemperance, syphilis, or other results of his own imprudence."

August 26, 1869, Dr. John H. Packard states:

"In regard to John Davis's case I can only say that the severest scrutiny has never verified the suspicion which the general history has excited in the minds of the surgeons who have had him in charge. Several of us discussing the case have talked about this very point of it. We had all thought it possible, but none of us had found any proof. I myself am prepared to certify that to the best of my belief the case has not been in any respect one of venereal disease."

W. E. Lentz and William Jones certify that "he (Davis) has always been a man of strict temperance habits and of the most exemplary character, and not addicted to any kind of bad or immoral habits; that he is a married man and a consistent member of the Fourth Baptist church, and that he was a hale, healthy man before his enlistment."

Board of pension-surgeons, March 2, 1870, report:

"The applicant has suffered amputation at knee-joint, the result of extensive caries of tibia, he says caused by injury of shin-bone while on board the Octorora, 1st day of August, 1864. Has never done any work since his discharge, or since the injury. Has had dead bone removed by five different operations. We cannot detect any syphilitic origin for the disease, and would recommend total pension up to June 6, 1866, after which total of third grade, June 6, 1866."

April 22, 1870, claimant states that he is unable to furnish evidence of the alleged injury of his leg, August, 1864, and asks that the case be decided upon the facts before the office.

Rejected April 28, 1870.

W. D. M. IRETON,
Examining Clerk.

There is no doubt that the claimant received the injury to his leg while serving on board the Octorora, and, in the absence of any proof to the contrary, the committee think it fair to infer it was received in the line of duty.

The only point that seems to have occasioned doubts at the Pension-Office was whether the system of Davis was not so corrupted by venereal disease that a wound which in a healthy condition would have healed in a short time, occasioned amputation of the leg in consequence of the presence of syphilis in the system. On this point there is great difference of opinion, as will be seen by the abstract above given. But the committee think the preponderance of evidence is against the syphilitic theory. Too many eminent surgeons have critically examined his case while in hospital, and given their testimony, not to shake our confidence in the conclusions of the naval surgeons. When to this is added the fact that he lived a moral and religious life, was noted for good habits and belonged to the church, we are constrained to believe that the theory of the Navy surgeons should be rejected.

To make it accord with the practice of the committee in like cases, we recommend the passage of the bill with an amendment, that the pension take effect from the time it becomes a law.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1873.—Ordered to be printed.

Mr. CRAGIN submitted the following

R E P O R T :

[To accompany bill S. 1446.]

The Committee on Naval Affairs, to whom was referred the bill (S. 1446) for the relief of Nathaniel McKay, ask leave to report :

That this claim is to refund to Mr. McKay the sum of six thousand five hundred and seventy-four dollars, assessed upon and paid by him as internal-revenue taxes under the following circumstances: In 1863, Mr. McKay was engaged as a ship-builder in East Boston, Massachusetts, in company with one Aldus, whose interest in said firm Mr. McKay now holds and owns.

1st. In the month of August, 1863, there was assessed by Otis Clapp, assessor for the fourth district of Massachusetts, on the hull and engines of the steamer N. P. Banks, then being built by said McKay & Aldus, the sum of sixteen hundred and fifty dollars, and which was duly paid, under protest, to the collector of the same district, on the 20th of October, 1863. This hull and machinery were not subject to such assessment and payment, as the keel of the vessel had been laid prior to the passage of the act imposing the taxes, and therefore not within its provisions. The receipts for the payment of this tax, and the affidavit of Mr. McKay, claiming a return from the Internal Revenue Bureau, are hereto annexed.

2d. He also claims the sum of one hundred and sixty dollars assessed upon the hull of the steamer Azalia, and paid in March, 1864, because this vessel was afterward, in June, 1864, sold to the United States Government, and was therefore not subject to the assessment or payment of such a tax; and also the sum of eleven hundred and twenty-four dollars, paid upon the hull and engines of the steamer F. W. Lincoln, in September, 1864, the same having also been sold to the United States.

3d. He claims the further sum, as drawback, of three thousand six hundred and forty dollars, on the two steamers Edward Everett and La Potena, which was assessed upon the engines and boilers of the Edward Everett and upon the hull and engines of the La Potena. These vessels were built by Mr. McKay for the South American market, and, so soon as they were ready for sea, were sent there and sold. The La Potena was burned and totally destroyed shortly after her sale and arrival in South America. The committee deem it quite clear that, these latter vessels having been built for a foreign market, and having been taken abroad and sold immediately after being ready for sea, the builder was entitled to the drawback claimed, under the provisions of the act of June 30, 1864, section 101, 13 Statutes at Large, p. 302.

The committee are satisfied that Mr. McKay was entitled, under a fair and proper construction of the internal-revenue laws, to the allowances, abatements, and drawbacks claimed by him. He made a proper application to the Commissioner of Internal Revenue and the Secretary of the Treasury to have these taxes refunded, but this was refused. The committee are of opinion that these payments were improperly exacted, and the bill to refund the amount should be passed.

O

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 2521.]

The Committee on Pensions, to whom was referred the bill (H. R. 2521) granting a pension to John Greenwalt, submit the following report :

It appears from the evidence that John Greenwalt was enrolled a private in Company F, Twelfth Regiment Illinois Volunteer Infantry, on the 3d day of April, 1864; that he was received into the general hospital at Quincy on January 9, 1865, and, being found incapable of performing the duties of a soldier, because of anchylosis of the right ankle from gunshot wound, the disability being total, was discharged on the 3d of April, 1865. On the 19th of May, 1864, while his company was at Kingston, Georgia, Greenwalt was injured in the toes by being run over by an artillery caisson, and for this cause was sent to hospital at Chattanooga. The records of the War Department show his discharge for disability as above, but say nothing of wounds received. His company was engaged in the action at Kenesaw Mountain on June 30, 1864. All that follows is dependent upon the statement of Greenwalt alone. He says that having been in the field hospital at Chattanooga for three weeks, he was put under the charge of a captain of the Second Alabama Colored Troops, to be returned to his regiment; that while in front of Kenesaw Mountain he and the party of detached men under charge of this captain were assigned to the command of some colonel, and were marched up in line of battle, and joined to this colonel's command during the battle at that place; and that within thirty minutes after he arrived on the field he was wounded in the right ankle by a minie-ball, which disabled him, and, in consequence, he was sent first to a hospital in Nashville, then to another at Louisville, thence to one at Quincy, where he was discharged, as above.

This comprises all the evidence. It will be seen that it mainly turns upon the credit we should attach to his statement.

It is undeniable that he was discharged from the hospital as unfit for duty, on account of stiffness or immobility of his ankle. This occurred while he was in the service, undoubtedly. If he was rushed into action, as he says, attached to a strange command, and wounded soon afterward and sent to hospital, it would account for the absence of official evidence, for he was a stranger, not knowing the name of the colonel,

even, to whose command he was attached. Besides, he is a Frenchman, and some allowance should be made, probably, for the imperfection of his knowledge of our language.

The committee think it safer to assume his statement to be true than incur the risk of doing him injustice by wholly rejecting it; accordingly they recommend the passage of the bill.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

R E P O R T :

[To accompany bill H. R. 2523.]

The Committee on Pensions, to whom was submitted the bill (H. R. 2523) granting a pension to Henry Riemann, submit the following report :

Henry Riemann was a private in Company G, Twelfth Regiment Maine Volunteers. He served with that organization from August 7, 1862, until July 31, 1865. He applied for a pension at the Pension-Office in 1865. His application being rejected there, he came to Congress in January, 1868. The House bill under consideration was passed on April 24, 1872, and gives him a pension from March 4, 1869.

In his memorial he states, that, being stationed at Proctorville, Louisiana, doing picket duty with his company, he was sent upon a pass to New Orleans to procure needful articles for his company; that, owing to the crowded condition of the railroad-car on his return, he was thrown from the car, falling upon the rail, and his left arm was crushed beneath the wheel of the car, and that amputation became necessary.

S. B. Packard, who describes himself as late captain in this regiment, certifies from hearsay his belief that the private's account of the manner in which he received the injury was correct, and that the young man's character for truth was good.

In his original declaration for a pension Riemann says the injury was caused by his falling from the cars, and that he was treated at McDougall's hospital, Fort Schuyler, New York, March 8, 1865, and after that at Central Park hospital, where he was discharged July 3, 1865.

Captain Robinson, of Company G, of this regiment, certified, April 13, 1866, that Riemann had the permission to go to New Orleans, and that on his return his hat flew off while he was upon the train, which was at the time stationary; that the soldier stepped off to get his hat, and reaching before the wheels to recover it, the train suddenly started, and a set of wheels passed over his arm, crushing it in such a manner that amputation became necessary, and that this occurred about the 16th of January, 1864.

The certificate of disability upon which his discharge was obtained shows simply that Riemann stated under oath that his arm was amputated in consequence of injuries received while in the line of his duty, traveling on the Mexican Gulf Railroad, January 16, 1864.

The surgeon in charge of the hospital certifies, July 22, 1865, that he found Riemann incapable of performing the duties of a soldier, because of amputation of the left arm, and that his disability was total.

There is some discrepancy in the various statements of Riemann and the officers as to the precise manner in which the accident occurred. There is none, however, as to the main fact, the crushing of the arm beneath the wheels of a railroad-train, nor on the point that he was traveling on the road by the license of his commanding officer. We cannot say that he was not in the line of duty, if, as certified, he went to New Orleans on business of the company.

Though the case is not entirely free from doubt, the committee recommend the passage of the bill, with an amendment that the pension shall commence from the passage of the act, in conformity with the rule on the subject in the Senate.

O

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 2520.]

The Committee on Pensions, to whom was referred the bill (H. R. 2520) granting a pension to Thomas Lunney, submit the following report:

Thomas Lunney was duly enlisted as a private in Company G, One hundred and twenty-eighth Regiment Indiana Volunteers, at Logansport, Indiana, on the 8th of February, 1864, and was transferred to Company One hundred and fifty-one, Second Battalion Veteran Reserve Corps, and was discharged from the service on the 1st day of August, 1865, at Nashville, under General Order No. 116, War Department, dated June 17, 1865.

He is now blind, and an inmate of the asylum for the blind at Columbus, Ohio.

About the 1st of May, 1864, at Charleston, Tennessee, he was detailed from his company as a teamster for the brigade, by an order from brigade headquarters. At this time his eyes were sound, and he had made no complaint up to this time of any trouble with them. These facts are well established by the evidence of Surgeon Brown and the lieutenant of his company. Lunney himself swears that while on this detailed service, driving his team through East Tennessee, and on the campaign to Atlanta, his eyes became sore in consequence of exposure to cold and rain, and continued to grow worse until he was sent to Cumberland hospital, at Nashville, and remained there until discharged, having been transferred while there to the Veteran Reserve Corps, in which he performed light duty on guard and in the laundry.

The evidence in the Surgeon-General's Office shows that Lunney was received into the above-named hospital on June 26, 1864, for treatment for ophthalmia, and that he was furloughed October 1, 1864; no evidence of his re-admission from furlough.

He was examined by Dr. Watterman, of La Fayette, Indiana, in May, 1866, with a view of obtaining his advice and assistance. The doctor found complete opacity of the cornea of each eye, and pronounced the case incurable by ordinary means, but advised him to consult Dr. Taliaferro, of Cincinnati, now deceased.

He is hopelessly blind. Among the papers are several letters from the governor of Ohio, who seems to have been inspired with a warm interest in his behalf.

The testimony shows Lunney to have been a good soldier, and there is no suggestion in all the evidence that his blindness is in consequence of any vicious habit or improper conduct.

The committee deem this a proper case for relief, and recommend the passage of the bill.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1873.—Ordered to be printed.

Mr. HAMILTON, of Texas, submitted the following

R E P O R T :

(To accompany bill H. R. 2469.)

The Committee on Pensions, to whom was referred House bill No. 2469, granting a pension to Peter Brewer, late a private in Company F, Twenty-ninth Regiment, Indiana Volunteers, have had the same under consideration, and submit the following report :

The said Brewer, in his petition, which is sworn to, states that he volunteered as a private in Company F, Twenty-ninth Regiment, Indiana Volunteers, at South Bend, Indiana, on the 29th day of January, 1862, for the term of three years or during the war. That he served faithfully with said company and regiment in the field until about the 18th May, 1862, when, shortly after the battle of Pittsburgh Landing, while camping on the ground without a tent, he in some way became severely poisoned, his face and neck becoming so much inflamed as to deprive him of sight for several days, when he was sent to the United States hospital at Evansville, Indiana, as unfit for duty. That immediately upon his arrival at the hospital, he was furloughed and sent to his home, at South Bend, for thirty days, at the end of which he went to Indianapolis, on his way to report for duty; and that, upon arriving there, he was examined by United States Surgeon Bobb, and being found unfit for duty in the field, he was granted a further furlough for thirty days, and again sent home.

That while at home on this second furlough, on the 4th day of July, 1862, in the town of South Bend, he was engaged in firing salutes for the purpose of celebrating our national independence and our then recent Union victories. That while so engaged, his right arm was so broken and shattered by the premature discharge of the gun which he was loading, that amputation of the arm became necessary. That on the 1st day of August, 1862, he was discharged from the service of the United States, at Indianapolis, Indiana. That immediately after being discharged, he made application for an invalid pension, and deposited his certificate of discharge with his attorney or agent, who has lost or mislaid the same. That his furloughs above mentioned were surrendered at the time he was discharged from the service. That his claim for pension was forwarded to the Commissioner, and disallowed, as the petitioner was informed, on the ground that he was not engaged in the line of his duty as a soldier when he was disabled.

The applicant pleads poverty, and a family; that he has always been loyal to the Government and a faithful soldier all the time he was in

the service. That he was disabled by accident while engaged in a patriotic duty. A number of his neighbors testify to the fact of the loss of his arm in the manner stated, among the rest the Hon. Schuyler Colfax, and urge his case as one appealing to the sense of the nation. All the evidence in the case is furnished by the applicant himself, and the facts clearly show that under the general laws he is not entitled to a pension.

The evidence of his enlistment, service, furlough, and final discharge are doubtless on file in the proper offices, but would not strengthen his case if before the committee. It is a case which strongly appeals to our sympathies, but at the same time some respect must be shown for the limitations fixed by the general laws upon this bounty of the nation, else those who suffered in the line of duty will likewise suffer by the inability of an overburdened treasury to meet these claims upon it.

The committee recommend the indefinite postponement of the bill.

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1873.—Ordered to be printed.

Mr. HAMILTON, of Texas, submitted the following

REPORT:

[To accompany bill H. R. 2471.]

The Committee on Pensions, to whom was referred House bill No. 2471, granting a pension to John Hedding, have had the same under consideration, and submit the following report:

The applicant states, in his declaration to the Commissioner of Pensions, November 7, 1868, that he shipped in the service of the United States, at Washington navy-yard, on or about the 14th day of October, 1863, as a boatswain's mate, on board the ship Eutaw, commanded by Captain Blake, and was honorably discharged at the United States Naval Hospital at Norfolk, in the State of Virginia, on or about the 23d of May, 1864; that while in service, and in the line of duty, he had a violent attack of rheumatism, from exposure while on board the Eutaw, and was sent to the hospital at Norfolk, Virginia, in March, 1864, where he remained until his discharge, which is on file among the papers, and dated the 23d day of May, 1864. The discharge on its face shows that it was recommended by Surgeon William Johnson, jr., of the Navy, but does not state for what reason. The affidavit of the surgeon, dated the 8th February, 1872, states that he discharged John Hedding at Norfolk, Virginia, May 23, 1864, for disability, and that, according to his recollection, said disability was rheumatism, contracted while in the service and in the line of duty.

The testimony being unsatisfactory to the Commissioner of Pensions, application was made to the Bureau of Medical Surgery for additional testimony from the records of the hospital at Norfolk, and, under date of 27th December, 1868, Surgeon James Wilson, United States Navy, in charge of the hospital at Norfolk, Virginia, states that the daily journal, as well as the general register of the hospital, show that Hedding was admitted from the Eutaw on the 15th April, 1864, afflicted with "chronic rheumatism," and that he was discharged from service on May 27, 1864, by an order of Commodore Livingston, upon the recommendation of Surgeon S. Sharp, who testified in his letter that Hedding had no claim to pension. Upon this evidence the Commissioner of Pensions appears to have dismissed the case. The testimony was rather meager and uncertain before the records at the Norfolk hospital were examined, and, in the opinion of the committee, would have justified the rejection of the claim at the Pension-Office.

Surgeon Sharp's statement, upon whose recommendation the applicant was discharged, leaves little doubt in the opinion of the committee that the bill should be indefinitely postponed; and they so recommend.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1873.—Ordered to be printed.

Mr. SAULSBURY submitted the following

REPORT:

[To accompany bill H. R. 2557.]

The Committee on Pensions, to whom was referred the bill (H. R. 2557) granting a pension to William D. Boyd, having considered the same, report:

That the said William D. Boyd was never in the service of the United States as a soldier, but alleges that he was a private in Company E, First Regiment Kentucky Volunteers, (a home-guard organization of said State,) and wounded by the accidental discharge of a gun in the hands of a fellow-member of said regiment, from which amputation of the left arm resulted. Admitting his statement to be true, the committee do not see that he has any claim upon the bounty of the Government. He should seek relief, if anywhere, from the State of Kentucky, in whose service he was engaged at the time his disability was incurred. They therefore report adversely upon the bill.

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1873.—Ordered to be printed.

Mr. SAULSBURY submitted the following

REPORT:

[To accompany bill H. R. 2558.]

The Committee on Pensions, to whom was referred the bill (H. R. 2558) granting a pension to Elizabeth Jones, submit the following report:

The petition of Mrs. Jones alleges that she is the widow of John Jones, senior, and that her husband was a private in Company H, Second Regiment North Carolina Mounted Infantry, and died of disease contracted in the service. Affidavits filed with the petition state that said John Jones enlisted in Company B of said regiment in 1863, and was subsequently transferred to Company H of the regiment, and died before the regiment was organized. His name does not appear on the rolls of either company, and the committee deem it improper to rely upon *ex-parte* affidavits in a matter which ought to appear by the records of the company with which he is said to have been connected, and report against the bill.

THE UNIVERSITY OF CHICAGO

LIBRARY

LIBRARY

LIBRARY

The University of Chicago Library is a collection of books, manuscripts, and other materials that are owned by the University of Chicago. The library is located in the University of Chicago Library Building, which is situated on the South Campus of the University. The library is open to the public and is a valuable resource for students, faculty, and the general public. The library's collection includes books, manuscripts, and other materials in a wide range of subjects, including the humanities, social sciences, and natural sciences. The library is also home to a large collection of rare books and manuscripts, which are available to researchers and scholars. The library's collection is constantly growing, and it is a testament to the University's commitment to scholarship and research.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1873.—Ordered to be printed.

Mr. SAULSBURY submitted the following

R E P O R T :

[To accompany bill H. R. 2559.]

The Committee on Pensions, to whom was referred the bill (H. R. 2559) granting a pension to Henry A. White, submit the following report :

The said Henry A. White is now drawing a pension as late private in the Army, connected with the Second North Carolina Regiment, and asks to have a pension allowed him as captain of a company in the Third Regiment North Carolina Infantry. It appears from his statement and an affidavit that he was detailed to recruit volunteers, and was promised the position of captain, by whom it does not appear, when he should raise a company ; that he raised a company, but was never commissioned as captain, but acted in that capacity for a time, was wounded, and pensioned as a private. The committee are of opinion that his true relation to the Army was that of a private, and that his pension as such is conclusive on that point, and report against the bill.

THE HISTORY OF THE UNITED STATES

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1873.—Ordered to be printed.

Mr. SAULSBURY submitted the following

REPORT:

[To accompany bill H. R. 2561.]

The Senate Committee on Pensions, to whom was referred the bill (H. R. 2561) granting a pension to Edward F. Tucker, having considered the same, submit the following report:

The said Edward F. Tucker was a private in Company F, Second Regiment Maryland Volunteers, enlisted July 6, 1861, and discharged April 4, 1862, for disability. He states that the cause of disability was an injury received by the giving way of an embankment upon which he, with other soldiers, was on guard duty, causing him to fall against a bayonet in the hands of a comrade, whereby his knee was injured, and which finally produced stiffness of the knee. Corroborating affidavits appear among the papers. The application was rejected at the Department because the record evidence showed that the disability existed before the alleged injury described by the petitioner as the cause. The captain of the company, in the certificate for discharge of the soldier, states that he discovered the stiffness of the soldier's knee about one month after his enlistment, and the surgeon of the regiment certifies that the patient informed him that he was injured by a blow about two days before enlistment. The statement of the petitioner in his application to the Department differs somewhat from that contained in his petition to Congress, and the committee are not satisfied that the injury resulted from the military service of the petitioner, and cannot recommend the passage of the bill.

THE SECRETARY OF THE INTERIOR

WASHINGTON, D. C.

DEAR SIR:

I have the honor to acknowledge the receipt of your letter of the 28th inst.

and in reply to inform you that the same has been forwarded to the proper authorities.

REPORT

ON THE PROGRESS OF THE WORK DURING THE YEAR 1899

The work of the Department during the year 1899 has been characterized by a steady and continuous progress in all the various branches of its activity. The most important of these branches are the surveying, the geological, the mineral, and the biological. In the surveying branch, the work has been directed towards the completion of the surveys of the public lands, and the establishment of a system of boundaries for the same. In the geological branch, the work has been directed towards the discovery of new mineral resources, and the investigation of the geology of the public lands. In the mineral branch, the work has been directed towards the discovery of new mineral resources, and the investigation of the geology of the public lands. In the biological branch, the work has been directed towards the discovery of new plant and animal resources, and the investigation of the biology of the public lands. The progress of the work during the year 1899 has been such as to warrant the belief that the Department will be able to complete its work in the near future.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1873.—Ordered to be printed.

Mr. FERRY, of Connecticut, submitted the following

REPORT :

[To accompany bill H. R. 2545.]

Mrs. Cross is a widow, the mother of nine children, four of whom served in the war of the rebellion, and three out of the four were killed in battle. She has received the bounty of two that was unpaid when they were killed, amounting to \$200, and is in receipt of a pension of \$8 per month, as dependent mother of one of them. She asks for increase of pension. No evidence is furnished that any of her deceased sons contributed to her support, other than the one for whom she is already receiving a pension, and in the absence of such evidence the committee must report adversely.

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1871

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IT IS THE DUTY OF THE GOVERNMENT TO

PROTECT THE INTERESTS OF THE PEOPLE

AND TO ENFORCE THE LAWS OF THE LAND

REPORT

OF THE COMMISSIONER OF THE LAND OFFICE

FOR THE YEAR 1871

THE LAND OFFICE HAS THE HONOR TO ACKNOWLEDGE THE RECEIPT OF THE REPORT OF THE COMMISSIONER OF THE LAND OFFICE FOR THE YEAR 1871. THE REPORT IS A VALUABLE CONTRIBUTION TO THE KNOWLEDGE OF THE LANDS OF THE UNITED STATES, AND IS WELL CALCULATED TO ASSIST THE GOVERNMENT IN THE MANAGEMENT OF THE PUBLIC LANDS.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1873.—Ordered to be printed.

Mr. **FERRY**, of Connecticut, submitted the following

R E P O R T :

[To accompany bill H. R. 2550.]

The committee report that petitioner is the widow of Thomas Maynard, who was murdered in October, 1864, while recruiting for the Kentucky State service.

There is no evidence how or by whom he was slain; he was never in the United States service, and his widow has no claim in law or equity for a pension.

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1873.—Ordered to be printed.

Mr. FERRY, of Connecticut, submitted the following

REPORT:

[To accompany bill H. R. 2551.]

Committee report that there is no evidence whatever to support the claim of the petitioner, except his own statement. By his own neglect, he cut himself off from arrears of pension, and presents no real excuse. To pass his bill would be the worst of precedents.

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REPORT OF THE UNITED STATES

OF THE

COMMISSIONERS OF THE LAND OFFICE

REPORT

OF THE

COMMISSIONERS OF THE LAND OFFICE
IN RESPONSE TO A RESOLUTION OF THE SENATE
PASSED MAY 10, 1874

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1873.—Ordered to be printed.

Mr. FERRY, of Connecticut, submitted the following

REPORT:

[To accompany bill H. R. 2547.]

The Committee on Pensions, to whom was referred the bill (H. R. 2547) granting a pension to Nancy Mason, respectfully report:

That she is the widow of James S. Mason, who about August 26, 1863, was enlisted as a private in a company then recruiting for the Fifty-second Regiment Kentucky Mounted Infantry; that he died before said company was filled, and was never mustered into the service of the United States, nor does his name appear on the rolls of said company. The committee think that it would be a bad precedent to grant a pension in such a case, and report against the bill.

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1873.—Ordered to be printed.

Mr. FERRY, of Connecticut, submitted the following

REPORT:

[To accompany bill H. R. 2485.]

The Committee on Pensions, to whom was referred the bill (H. R. 2485) for the relief of Washington Frisbie, respectfully report :

Said Frisbie served as landsman on the United States ship Galena, and claims to have been disabled in an action near Fort Darling, on the James River. Evidence from hospital at Norfolk is as follows :

Washington Frisbie, landsman ; aged 40 ; native of Centreville, Maryland ; shipped June 14, 1861 ; admitted August 27, 1862, from the United States ship Galena, affected with cephalalgia, (headache.)

On the hospital-ticket is indorsed :

Admitted August 22, complaining of intense headache ; afflicted also with ——— and more or less pain in his limbs. Has been more or less sick ever since he has been on board. There is no evidence that the disease originated in the line of duty.

A full list of the casualties on the Galena in the action at Fort Darling is on file in the Bureau of Medicine and Surgery, Navy Department, and Frisbie's name does not appear ; nor does the journal of practice of that vessel show that he was under treatment at any time for injury or disease.

The testimony in favor of the petitioner does not meet the very strong accumulation of evidence against his claim, and the committee report against the bill.

THE STATE OF THE UNION

Report of the Secretary of the Interior

for the year ending June 30, 1875

REPORT

of the Secretary of the Interior

The Secretary of the Interior has the honor to acknowledge the receipt of the report of the Commissioner of the General Land Office, and to transmit herewith the same to the Senate and House of Representatives. The report contains a full and complete statement of the affairs of the Department for the year ending June 30, 1875. It also contains a statement of the progress of the work of the Department during the year, and of the results of the various operations of the Department. The report is divided into two parts, the first of which contains a statement of the affairs of the Department, and the second of which contains a statement of the progress of the work of the Department during the year, and of the results of the various operations of the Department.

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 7, 1873.—Ordered to be printed

Mr. PRATT submitted the following

REPORT:

[To accompany bill S. 1549.]

The Committee on Claims to whom was referred the memorial of William H. Vesey, praying to be relived of a certain loss sustained while consul at Havre, France, submit the following report :

Mr. Vesey presents the following state of facts as the basis for the relief asked :

On the 27th of March, 1857, he was consul of the United States at Havre, and had been for several years previously. During all this time he had been in the habit of depositing moneys received by him in his official capacity with the banking-house of Green & Co., American bankers at Paris, with a branch at Havre, for safe-keeping. On that day there remained on deposit in the hands of said firm the sum of \$1,467.30, at the time they failed and became insolvent. On settlement of their affairs Mr. Vesey has received 10 per cent. of his deposit, or \$146.73, leaving a loss of \$1,320.57. Notwithstanding the failure, Mr. Vesey paid the amount of his deposit into the Treasury of the United States.

He asks Congress to refund him the sum of \$1,320.57, and says he has executed an assignment to the United States of all his right, title, interest, and claim to the moneys still due from Green & Co.

The present minister to France recommends the relief of Mr. Vesey. The Secretary of the Treasury makes no recommendation, but admits that Mr. Vesey has paid the amount of the loss into the Treasury.

The chief clerk in the State Department pays a high compliment to Mr. Vesey as a faithful officer, and says that full confidence may be placed in his statements.

The Secretary of State expresses his confidence in Mr. Vesey's account of his loss, and says this gentleman was for many years in the employ of the Government under his Department in several consulates, and enjoyed a high reputation for integrity, capacity, and the faithful discharge of all the duties of his position.

That the money was lost by the failure of the bankers; that it was funds belonging to the United States, though standing to the credit of Mr. Vesey; that it has been made good to the United States, are facts which the committee assume as established. The evidence is not before us showing the standing and reputed solvency of Green & Co. at the time of failure, though from the report made to this body on May 23, 1860, by the Committee on Foreign Relations, it would seem there was

satisfactory evidence before them that up to the date of their suspending payment the credit of Green & Co. was good, and their branch-house at Havre regarded a safe place for the deposit of moneys, better much than the keeping of them by Mr. Vesey, either at the consulate or at his residence. Such is the testimony of Mr. Mason, at that time minister from this country to France.

We think the evidence shows that the consul was not guilty of want of caution in making his deposits with this banking-house, if he chose to commit public funds to the hands of others at all for safe-keeping.

The deposit, however, was at his risk. He was bound to account for all the consular fees collected, and he confessed his liability at law by promptly accounting for the money.

Shall he or the Government be the loser? The committee are of opinion that Mr. Vesey should be relieved, and accordingly report a bill herewith, and recommend its passage.

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 7, 1873.—Ordered to be printed.

Mr. WRIGHT submitted the following

REPORT:

[To accompany bill H. R. 2039.]

The Committee on Claims, to whom was recommitted bill H. R. 2039, "An act for the relief of Joseph Wescott, of Portland, Maine," have again had the same under consideration, and beg leave to submit the following report:

To avoid again stating the nature of the claim, they here incorporate the former report, and discuss the facts there disclosed, in view of the additional testimony submitted by the petitioner.

The Committee on Claims, to whom was referred bill H. R. 2039, "An act for the relief of Joseph Wescott, of Portland, Maine," have, after due consideration, instructed me to submit the following report:

The bill before us allows the claimant \$2,325 for granite delivered in 1860, at the navy-yard, Norfolk, Virginia, and afterward used by the Government in the construction of buildings and construction of quay-walls.

The testimony accompanying the bill tends to show that the petitioner had a contract with the Government prior to 1860 for building a stone pier at Norfolk, Virginia; that this contract was completed in the spring of that year; that he had a lot of granite not needed in his contract, and obtained the consent of the officer in charge of the navy-yard to store it therein, and that it was understood that, when an appropriation should be made for the construction of the quay-wall, the granite would be used, and he paid a fair price therefor. It is fairly probable that there were 3,100 cubic feet of granite thus stored, which by the petition is valued at \$1 per cubic foot, and for which, by the bill, he is allowed twenty-four per cent. less.

The real question of difficulty is, what portion of this granite, if any, was used by the Government.

The engineer of the Bureau of Docks and Yards, in a letter of August 29, 1869, says: "I have no doubt there was a quantity of stone at the yard belonging to you, (the memorialist,) nor do I doubt that it was used by the Government, but, unfortunately, there seems to be no satisfactory way of ascertaining the quantity, the records, if there were any, having been destroyed at the time the yard was burned."

The Chief of the Bureau, under date of December 24, 1869, says, in substance, that of his own knowledge, or so far as the records show, he knows nothing of the claim.

The agents of the memorialist who were on the ground, and acting for him, state that those stones when placed in the yard were "piled separately from other stone."

The engineer of the Bureau of Yards and Docks, in a statement of December 24, 1869, confirms the statements of his letter of August 29, 1869, stating, that while it is beyond doubt that the stone was used by the Government, there is no positive evidence of any Government officer as to the exact quantity used.

In January, 1865, Worrall, civil engineer, at Norfolk, writing to the commandant in relation to these stones, says they were said to have been landed or stored a short time before the evacuation of the place by the United States forces in 1861; that they were

placed on the north side of the yard; that there was testimony tending to show that there was one or two hundred tons of dressed stone not stacked with the main bulk of the stone; that the presumption was that all belonged to the Government; that a few pieces were used since the re-occupation of the yard by our forces; that they may have been used by the so-called rebel government while they held the yard, but of this there is no one to testify; that petitioner claimed he surveyed the pile shortly after the re-occupation, and that he thought it looked pretty much as he left it in 1860; but the officer knows nothing about the matter whatever.

In September, 1869, the Chief of the Bureau writes to the petitioner that "though the probability is strong that the stone left by you was used either by the rebels or by us after our re-occupation, it would not be possible for this Bureau to entertain the idea of paying for what was not asked for, nor what we have no proof that we have used, after a fair inquiry with the view of ascertaining the fact."

And thus we have all the evidence as to the use of the stone by the Government.

It seems to us, in a case so susceptible of almost demonstration, it is very vague and loose indeed. If used, those stones were put into some building or improvement erected or made by the Government. Assuming that these structures were erected or made under the supervision of Government officers, made, too, under such contracts as are usually entered into for such purposes, it is a little remarkable that this quantity of material could not be distinctly and unmistakably traced and their precise place located. It could certainly be shown where the other stone were obtained, if an additional quantity was used, and thus lay an approximately reliable basis for finding what was used of that left by petitioner. If some other was used, then the case could be made even clearer. The property for which compensation is claimed is not of small dimensions, not of light and easily destructible material, but of great size, similar, as we presume, to that used by the petitioner under his contract, and hence not difficult of identification.

Then, too, the yard was for some time, as it appears, in the possession of the rebel forces, and what they used or destroyed does not appear, and it seems to be impossible to show, or at least it is not shown, what was used by our Government and what by the enemy.

Under all the circumstances, we feel constrained to hold that the evidence does not warrant the passage of the bill submitted for examination, and we therefore recommend its indefinite postponement.

It will be seen that there was no question before but that Wescott had the granite at the Norfolk navy-yard, nor as to the amount left there; nor, again, as to its value. The real point of difficulty was, what portion of it was used by the Government. And our conclusion then was, that in a case so susceptible of clearer evidence, there was not sufficient to warrant the allowance of the claim.

Since making the former report, claimant has submitted the following additional evidence:

Mr. Hanscom, Chief of Bureau of Construction and Repairs, (Navy Department,) under date of the 23d of January last, says, "that I was stationed at the Norfolk navy-yard in 1863, and am cognizant of the fact that a large quantity of cut granite was in the yard piled up in several places, and my attention was called by Mr. Wescott to a large quantity, lying near the wharf, which he claimed, as it had not been paid for. I should judge there was about 175 or 200 tons of this granite, and I called the attention of the commandant to the claim of Mr. Wescott, who replied that the claim for the payment must be made to the Department, but the stone would be used for Government work. I am sure the stone has been used for the Government work, as all of the stone then on hand has been used."

Mr. Sawyer, who, it appears, from a statement of the Chief of the Bureau of Yards and Docks, has been an engineer of that Bureau for thirty years, and familiar with the subject, under date of the 25th of July, 1873, says: (We give the substance of his statement.)

Before the rebellion Wescott had a contract to build a stone pier at Fort Norfolk. The work was successfully executed, and there was a quantity of stone left over, which he desired to sell to the navy-yard, there were no funds, and he had permission to land it at the yard,

expecting to sell to the Department at some future day. The stone thus landed remained piled separately from all other stone for some time. It was there when the confederates took possession, and found there when we regained the yard. I was there soon after we took possession, and there was no evidence that the stone had been used by them. They did not erect any structure requiring such stone, nor do I believe they did use it. Since we repossessed the yard, I am quite confident the stone has all been used by the Government in rebuilding and repairing various buildings and other structures in the yard. A quantity of granite has recently been purchased there, which I think would not have been done if this granite was still on hand. I was not stationed at the yard at the time these transactions occurred, but was there occasionally, and believe, from the information there obtained, the foregoing to be a true statement of the facts.

We think that this evidence, in connection with what was before submitted, relieves the case of the difficulties pointed out in the former report. It is now reasonably clear that the stone landed and there at the time the Government lost possession was still there when we repossessed the yard. It is also fairly well established that it was used by the Government. The more positive evidence, which we before suggested, was easily attainable, as the stone was susceptible of identification, and it could be known where all other stone used was obtained, is perhaps not so readily produced as we supposed, from the fact that other stone was in the yard belonging to the Government, and, with that belonging to Wescott, was used as needed, the officers probably not knowing or caring who left it there or to whom it belonged. That it was all used, and put into Government buildings or structures of some kind, we think is sufficiently evident. It also appears to us that the amount provided for in the bill referred to us is but just compensation for petitioner's property.

We therefore report the same back, and now recommend its passage.

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 7, 1873.—Ordered to be printed.

Mr. DAVIS submitted the following

REPORT:

[To accompany bill H. R. 3514.]

On the 28th of October, 1868, Willie A. Wysory, collector at Baltimore, collected from the firm of William Shillings & Co. \$925.50, tax on 1,851 gallons of spirits, or whisky. On the following day, while the whisky was still in the bonded warehouse, and in charge of Albert Irego, United States store-keeper, the distillery caught fire and was burned, together with the bonded warehouse, which was near. The 38 barrels, or 1,851 gallons of spirits, were destroyed. These facts are sworn to by Wysory, collector; Brooks, gauger; Irego, store-keeper, and Shilling.

Commissioner Rollins writes April, 1869: "It is clear the tax was paid before the spirits was moved, and that warehouse was burned with contents. I think the claim should be allowed, but cannot be done by the Commissioner or Secretary. Congress is the only power."

Committee think their bill allowing the amount collected, \$925.50, ought to pass.

IN THREE VOLUMES
BY NATHANIEL BENTLEY

Author of "The History of the City of New York,"
"The History of the City of Philadelphia," &c.

NEW YORK: PUBLISHED BY
J. B. LIPPINCOTT & CO.

1854.

NEW YORK: PUBLISHED BY
J. B. LIPPINCOTT & CO.

THE HISTORY OF THE CITY OF BOSTON, FROM THE FIRST SETTLEMENT TO THE PRESENT TIME. BY NATHANIEL BENTLEY, ESQ. VOL. I. THE FIRST SETTLEMENT TO THE YEAR 1700. NEW YORK: PUBLISHED BY J. B. LIPPINCOTT & CO. 1854.

THE HISTORY OF THE CITY OF BOSTON, FROM THE FIRST SETTLEMENT TO THE PRESENT TIME. BY NATHANIEL BENTLEY, ESQ. VOL. II. THE YEAR 1700 TO THE YEAR 1780. NEW YORK: PUBLISHED BY J. B. LIPPINCOTT & CO. 1854.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 7, 1873.—Ordered to be printed.

Mr. ALCORN submitted the following

REPORT:

[To accompany bill S. 1337.]

The Committee on Mines and Mining, having had under consideration Senate bill 1337, report the same with amendments and with a written report.

The geological surveys authorized from time to time by Congress, have developed the fact that we possess a mineral domain of incalculable value, reaching from the Rocky Mountains to the Pacific Ocean, and from Arizona to our possessions in Alaska, embracing an area of country of over one million square miles.

While we have been studying the geology of the surface, and have therefrom deduced theoretical conclusions of what will be found underneath, the question which has presented itself to your committee was whether the Government would not be justified in rendering some limited aid to a work, the completion of which would result in penetrating deeper into the bowels of the earth than man has ever reached before, and thus demonstrate practically to what depth mineral veins extend and can be worked.

That such a geological examination, if successfully carried out, would prove of high scientific interest and give great additional value to our mineral domain, your committee doubts not. The downward continuance of one great mineral vein once practically proven, will give confidence for the investment of private means in other localities where similar circumstances exist, and we may look for an influx of capital and a great stimulus to the mining industries of the country.

The completion of the Sutro tunnel, which cuts the great silver mines on the Comstock lode, in the State of Nevada, at a depth of 2,000 feet, presenting a new basis of operations at that point for the further penetration of the lode to a depth altogether of 4,000 feet, in the opinion of your committee presents a most favorable opportunity for carrying out such a geological examination.

The mines on the Comstock lode are probably the most productive of any known to the history of mining. They have produced already one hundred and forty million dollars, and are now producing over fifteen million dollars per annum. The lode has been traced to a length of over four miles, and has at some points been worked to a depth of 1,500 feet, where it is found to increase in value.

The work on the Sutro tunnel is in a state of great forwardness, nearly one million dollars having been expended thereon within the last year, and its completion within less than three years may be looked for with great confidence, provided sufficient means are available.

The work has been authorized by a special act of Congress, and the commission appointed to examine the same reports favorably as regards its importance.

The sum asked for as a loan is but the smaller portion of the total cost of the work, while the security given for its repayment is ample and satisfactory.

The Sutro tunnel is a work of such magnitude and difficulty of construction, that it reaches beyond the capacity of private capital.

A substantial recognition will give a national character to the work, and secure additional funds from private sources to complete the same.

Your committee would, therefore, recommend that the relief asked for in the accompanying bill be granted.

(For further particulars and most detailed information, reference is made to House of Representatives Report No. 94, Forty-second Congress, second session, embracing the commissioners' report, that of the Committee on Mines and Mining, and also the evidence.)

February 6, 1873.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 7, 1873.—Ordered to be printed.

Mr. NYE submitted the following

REPORT:

[To accompany bill S. 1475.]

The Committee on Naval Affairs, to whom was referred the claim of Daniel S. Mershon, jr., have examined the same, and submit the following report:

The facts may be stated as follows:

On the 12th day of October, 1861, the claimant, a resident of Bordentown, New Jersey, contracted with the United States, through the proper officers, to build the side-wheel steamer *Cimarron* for the sum of one hundred thousand dollars; said vessel to be constructed of like material, of the same size, and to carry the same weight of machinery as the *Miami*, to which reference is made in the contract, and letter of instructions dated September 30, 1861. While in the process of constructing said vessel it was deemed advisable by the officers of the Construction Bureau of the Navy Department to make many changes in the plans first submitted, and in almost every respect to build a different steamer than the *Miami*, referred to in the contract as a *model* and *guide* for the constructor. A short time after said contract was executed the *Miami* was launched, and it was ascertained that she was deficient in strength by reason of too light timbers in the hull, and consequently so weak she could not bear the machinery. The bottom of the *Cimarron* had to be built nearly anew, of heavier timber, double the quantity, the floors closely laid, the stanchions supported by knee-timber both top and bottom, and many other alterations and additions from the original plans and specifications were ordered by the Department, causing not only delay in the completion, but subjecting the claimant to great expense and pecuniary hardship.

The hull, by contract, was to be 190 feet long, and the plans were so changed after the draughts were made as to increase the length 15 feet, and the width 1 foot, which, although a radical and expensive alteration, was considered necessary by the naval constructors, that she might draw less water than the *Miami*, a requisite indispensable for boats of this class, often required for service in shoal waters. The Government profited by the experience of its officers in the alterations of the plan of this vessel from that of the *Miami*, the contractor suffering a corresponding loss, for which he has never received any remuneration whatever.

By the change in dimensions of vessel, as before stated, the tonnage was increased 130 tons, which, at \$125 per ton, (a low price for the hull of a ship built during the war, when labor and material were at an advanced price, and our national currency depreciated,) amounts to \$16,250.

The alteration on the hull, including the floors, the extra amount of timber necessary to strengthen the bottom, amounts to \$4,204.58.

The extra labor for pattern-makers, boiler-makers, machinists, and blacksmiths, at \$3.25 cents per day, for 2,131 days, the time necessarily employed, as shown by the time-book, to make these alterations, amounts to \$6,924.42.

As the Miami was the model in the construction of the Cimarron, the following statement will show the difference in weight of the machinery, with cost of same at the time it was used and the vessel completed:

	Cimarron.	Miami.	Difference.	Cost.	Total.
	<i>Pounds.</i>	<i>Pounds.</i>	<i>Pounds.</i>	<i>Cents.</i>	
Boilers.....	123,280	100,780	22,500	15	\$3,375 00
Smoke-stack.....	8,487	6,237	2,250	12	270 00
Coal-bunkers.....	34,792	24,422	10,550	10	1,055 00
Water-wheels.....	41,968	39,978	1,990	16	318 40
Iron castings.....	182,788	117,838	64,950	4	2,598 00
Brass castings.....	38,684	16,744	21,940	38	8,337 90
Forgings.....	70,355	47,805	22,550	15	3,382 50

Making a total cost on machinery over and above that of the Miami, \$19,336.10.

That but for the continued interference of the Department, in causing the said changes, this vessel would have been completed in the time stipulated in the contract; but by reason of the interruption of the work and delays occasioned by the Government at a time when the price of labor and all materials was on the increase, the expense to the contractor was greatly enhanced, without fault on his part, and it therefore constitutes a just claim against the United States, the benefits having accrued solely to the public service.

The justice of this relief to contractors who have suffered without their fault is fully recognized, and a precedent established by the Senate resolution of March 9, 1865, and by the report in pursuance thereof, (Ex. Doc. No. 18, 39th Congress, 1st session,) and by the passage of the act of March 2, 1867, after a long debate and the most exhaustive examination of the questions involved; also during the last session, in the passage of bill for the relief of J. S. Underhill, which is in point to the claim under consideration.

From the evidence submitted, and after a careful examination of the whole matter, the committee are impressed with the justice of this claim, and recommend its payment. They therefore report the accompanying bill, and ask its passage.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 7, 1873.—Ordered to be printed.

Mr. NYE submitted the following

REPORT:

[To accompany bills S. 1210, S. 1209, and S. 1260.]

This bill (S. 1210) proposes to allow the claim of Nathaniel McKay for additional compensation as a contractor for the war-vessel Squando and her machinery to be presented to the Court of Claims for examination and adjudication.

The introduction of this and like bills has led the committee to a full and careful examination of the whole subject, and we will very briefly state the facts and our conclusions.

In May, 1863, the Navy Department made a contract with the claimant for the construction of this vessel and her machinery, involving the expenditure of about four hundred thousand dollars.

The contract required the work to be done within a stipulated period, and the contractor who seeks relief alleges that the work would have been done within that period but for delays occasioned by the Navy Department in the changes of the plan of the vessel and the consequent interruption of the work, and other delays caused by the action of the Government. This interruption and delay occurred at the time when the prices of labor and of all materials, owing to the issue of paper money by the Government, were rapidly increasing, whereby, it is alleged, the expense to the contractor was greatly enhanced without fault on his part.

The delay which we have considered is that arising from actual changes and alterations ordered by the Government, and the only increased cost which can be allowed under this bill is such as resulted to the contractor growing immediately out of the action of the United States.

Meanwhile the currency was depreciating, the price of labor and material every day advancing, and consequently the cost of the performance of this contract was enhanced to the contractor to a ruinous extent.

The right of this claimant to relief has been recognized by both the Navy Department and by Congress, by the Senate resolution of March 9, 1865, and the report made in pursuance of it, (Ex. Doc. No. 18, 39th Congress, 1st session,) and by Congress in the passage of the act of March 2, 1867.

Under this latter act certain allowances were made to some of the contractors, while the claims of others were entirely rejected. It is alleged that the board misconstrued the meaning and effect of this act, and did not fairly carry out the intention of Congress in passing it; and that in

consequence of this error and mistake injustice was done to the claimant.

Your committee are well satisfied that in passing the act of March 2, 1867, Congress intended that the contractors should be compensated—

First, for all the cost and expenses of the changes and alterations made during the progress of the work not required by the original contract.

Second, for the rise in material and labor used in and employed on said vessel, occasioned by the delay required to make such changes at the order and direction of the Government, unless such increased cost could have been avoided by ordinary prudence and diligence on the part of the contractor.

These monitors, as war-vessels, were simply experiments. During the progress of the war, and while the contracts were being performed, many defects in arrangement and construction were discovered and many improvements were suggested by actual use; and it was these changes and alterations which so prolonged the time necessary to complete them, and so enhanced the expense of construction.

The great and rapid depreciation of the national currency, and the nominal rise in value of all labor and material, almost doubled the outlay to the contractor.

It was for these things Congress intended to compensate the contractors by the passage of this act, March 2, 1867.

This object has in part been defeated by the narrow, technical construction given by the board appointed to the enactment.

We report the present bill, with others, more cheerfully, and recommend their passage, because it proposes to refer the examination and determination of these cases to a judicial tribunal. The questions embraced are eminently judicial, involving disputed facts and controverted questions of law. The tribunal is one created by the United States for the determination of cases of this very character; one that is familiar with all the laws and rules relating to Government transactions and contracts; and possessing all the necessary machinery and appliances for a full, complete, and just trial and determination and decision of all questions of law and fact, and that decision subject to review by the Supreme Court of the United States, the highest judicial authority in the nation.

The whole subject can be there investigated in the same manner as between individuals. Whatever has been heretofore allowed in this case will be deducted from any finding of the court, and judgment rendered only for the balance, if any, found due. In this way we think full justice will be done to both Government and claimant. In accordance with these views, we report the accompanying bill, with amendment, and recommend its passage, and also submit the same report and make the same recommendation on Senate bill No. 1209, for the relief of Donald McKay, and Senate bill No. 1260, for the relief of Miles Greenwood.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 7, 1873.—Ordered to be printed.

Mr. SCOTT submitted the following

REPORT:

[To accompany bill S. 315.]

The Committee on Claims, to whom was referred Senate bill No. 315, for the relief of John M. Lamb, with his accompanying petition, have considered the same, and submit this report:

The claimant, in his petition, alleges—

That, on the 2d day of June, 1863, an order was issued from the headquarters Army of the Potomac, by which he was compelled to pay to the medical director of the Army of the Potomac a percentage of the receipts accruing from the sale of newspapers and periodicals, amounting to from \$1,500 to \$2,000 per month; that, in obedience to said order, he did pay to the medical director, for fear of compromising his business, the sum of \$24,765.20, more or less, for which receipts were given, (copies herewith submitted; originals retained.)

That he believes the tax, thus assessed and collected from him, was unjust, oppressive, and without any authority of law or regulation governing the Army of the United States; that, not finding any other remedy, he seeks redress by petition at the hands of Congress, as he respectfully prays.

In answer to a letter directed to the Secretary of War, asking for any information in possession of the Department which would assist the committee in arriving at a just conclusion upon this claim, he returned the following, per the Adjutant-General:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
January 24, 1873.

Respectfully returned to the Secretary of War. It appears from a copy of letter on file in this office of Brigadier-General M. R. Patrick, provost-marshal general, Army of the Potomac, of August 10, 1863, in reference to inquiry of Major-General George G. Meade, as to the way in which newspapers were supplied that army, that in accordance with the provisions of a circular dated June 2, 1863, of Major-General Hooker, proposals for furnishing the Army of the Potomac with newspapers and periodicals were received until June 12, 1863, when the bids were opened in presence of the council of administration; that Mr. John Lamb, having offered the highest sum (\$53.20 per day) for privilege, the contract was awarded to him.

The money received from Mr. Lamb for his privilege was turned over to the medical director Army of the Potomac, to be used for the benefit of the sick and wounded.

In the early part of November, 1863, Mr. Lamb called the attention of the provost-marshal-general (General Patrick) of the Army of the Potomac to losses sustained by him owing to movements of the Army, and the removal of the Eleventh and Twelfth Corps, and requested, in consequence of his losses, a deduction from the amount he was required to pay by his contract. General Meade declined to authorize any modification of Mr. Lamb's contract, and informed General Patrick that if Mr. Lamb was dissatisfied with his contract he could give it up.

The circular of June 2, 1863, from the headquarters of the Army of the Potomac, inviting proposals for the privilege of supplying that army with papers and periodicals,

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 7, 1873.—Ordered to be printed.

Mr. MORRILL, of Maine, from the Joint Committee on the Library,
submitted the following

R E P O R T :

The Joint Committee on the Library, to whom was referred the resolution directing them to inquire into the practicability of securing to authors the benefit of international copyright, report :

That, after attentive consideration of the subject-matter, they have found the question of international copyright attended with grave practical difficulties and of doubtful expediency, not to say of questionable authority.

At the outset of the examination much embarrassing contrariety of opinion between those who demand the measure as a just recognition of the rights of authors to their works and those representing the manifold interests, occupations, and domestic industries involved in the contemplated legislation became conspicuous; in the prominence and fervor of which the primary motive of any and all contemplated constitutional action, namely, the promotion of the progress of science and the useful arts, seemed—unconsciously, of course—likely to be overcast.

On behalf of authors and artists it is insisted that Congress owes it to universal authorship to grant protection to literary and scientific productions, irrespective of nationality, as a matter of justice and right; that the Constitution in this respect, as in the case of domestic authors, is mandatory in its character; that the mode and manner of such protection are prescribed, in terms, in its provisions; and that none other than the mode prescribed is at all allowable, leaving Congress no discretion in the premises; and that not to legislate in this behalf is to refuse the performance of an obvious duty; and that, having by the law of copyright secured to domestic authors exclusive rights to their works, thereby recognizing the obligation of protection to authorship, Congress stands derelict in the performance of its whole duty, in that it has not provided equal protection to universal authorship.

Upon the soundness and cogency of this proposition both American and foreign authors are understood generally to be agreed.

A portion of the American publishers (and they are among the most important) are willing to accede to the demand of the authors, upon the condition of satisfactory stipulations as to the medium of communication with the American public through their publishing houses; while the authors divide on the question of publication, a portion, not illogically, insisting upon the supposed duty of absolute protection without stint, limit, or condition, and a part are disposed to yield to the

terms of the publishers; and this adjustment of the matter, it is supposed, would redound to the progress of science and the arts.

A portion, and much the larger number of domestic publishers, are understood to be either hostile to the whole subject of international copyright, or consider all action in regard to it at least of questionable utility to the world of letters, and especially to the progress of science and the arts in this country and among our own people.

The printers, type-founders, binders, paper-makers, and others engaged in the manufacture of books, in large numbers remonstrate against the measure as calculated to diminish the popular sale and circulation of books, by raising the price thereof, and thus prejudicial to this branch of industry.

These classes, interests, and industries have been ably represented before the committee, and it may be observed that from these the measure is invested with its special interest, as we are not aware of any popular representation or demand, by memorial or remonstrance, or otherwise, on behalf of either book buyers or readers or the mass of the people.

The protection in his works that the author demands, it will be noticed, is an absolute and exclusive right of property therein. To all such appeals to Congress, (without entering into the consideration of such a pretension as an abstract proposition,) it is deemed sufficient to reply that the framers of the Constitution did not seem to have apprehended the justice of a claim so extensive on the part of authors, nor to have contemplated the promotion of the progress of science by legislation so partial and engrossing as that proposed; but, on the contrary, in the interests of *science*, and altogether subservient to its ends, and as an incentive to authorship to enter into its service, did provide for the enjoyment in their works of an especial privilege for a limited period.

The nature of the prerogative conferred, its use and limitation, are, each and all, alike inconsistent with the assumed rights; and, whatever abstract rights of property the author may be supposed to have in his production, it is clear that his appeal to Congress for protection can be recognized only within the express limitations of the Constitution.

It became important, in the outset, to bring to the examination of the subject a just appreciation of the provision of the Constitution in relation to it; that provision is as follows: Congress shall have power "to promote the progress of science and the useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."

All opinions, interests, policies, and economies must be brought to the test of this clause of the Constitution, in which the objects and manner of legislation are clearly expressed, and must constitute the rule of action upon the subject.

It may be proper to remark that the policy of national copyright does not necessarily enter into the discussion. It may be assumed that the Constitution not only contemplated such legislation, but that such action is supposed to be consistent with and in the interest of science, and tends to its progress. Nor is it supposed that a question properly arises as to the abstract rights of the author in his writings; neither is it important to consider whether any such rights had been recognized in England or in the American States anterior to the Constitution, as these rights do not constitute the object nor form the basis of that legislative action contemplated in the Constitution.

The constitutional provision is primarily in the interest of science, to which the rights and interests of authors are subordinated, and with

which they are not necessarily, in all respects, identical. The very terms of the instrument are a limitation on the power of Congress against the recognition of such absolute right; thus, "by securing for limited times to authors exclusive right to their writings."

The precise question is, Are the terms of the Constitution equally applicable to international copyright, and would their application "promote the progress of science?"

The language is sufficiently comprehensive, doubtless, to include all authorship. But in construing the Constitution, reference should be had to the condition of affairs at the period of its adoption, the obvious intent of the framers, as gathered from contemporaneous history, and must receive such construction as will carry out the object in view.

It was, it should be observed, to constitute, in a qualified sense, a Government in the interests of the people of the United States. Its framers would not, therefore, be expected to be solicitous for the protection of individual rights of those alien to its jurisdiction, nor were the circumstances of their national position such as were calculated to invite to the consideration of topics so eminently international in their operations and relations.

Besides, it must be borne in mind that the Constitution of the United States antedates all legislation upon international copyright in any country; that no thought of such a law was suggested to the convention that framed that instrument. Nor are there to be found in the history of the times such sentiments and opinions upon the subject as to justify a reasonable supposition that such a proposition could have been present in the minds of those who proposed the particular provision. It may be safe, therefore, to assume that international copyright was not within the contemplation of the Constitution, whatever interpretation the language may be thought to be susceptible of. To the argument as to the mandatory character of the provision in the interests of universal authorship, it may be replied that none but citizens could properly lay claim to protection of individual rights, and that, under the Constitution, these were all subordinated to the interests of science, and that whoever invokes the protection of the one must show that his demand is, at least, compatible with the other.

Whether the Constitution, in what it provides, is to be regarded as mandatory or permissive, confined to American or domestic authors, or extended to foreign or alien, in spirit and intent, it demands, as a primary, essential, and paramount consideration, that whatever is done in its name shall be in the interest of, and for the promotion of, the progress of science. In the presence of this paramount object, all rights of authors, publishers, booksellers, and book-makers must needs take a secondary place in legislative consideration. Nor is it less certain that herein lies the true interest of all genuine authorship. A demand for copyright, national or international, as a measure of protection to a property right simply, necessarily tends to sink the question of science to the level of a commercial transaction, and subjects it to the odium of an indefensible monopoly. It is only when considered as a tribute to genius, the quality and beneficence of whose productions are of universal recognition in the world of letters, that science and authorship become identical. It cannot be doubted that if, under undue stimulus of national copyright, the quality of literary productions should become inferior, commonplace, and baneful, Congress, in the interest of science, could apply the remedy, by limiting the privilege or denying it altogether.

It has even been said that a tendency in this direction already exists;

that authors who write for fame are growing fewer, and that writers who write merely for money are multiplying; that, in short, the relations between writers on one side, and publishers and the public on the other, are growing more mercenary; but this may be said to arise from the fact that the men of true genius who are really entitled to the honorable name of American authors are confounded with men who have no just claim to such a distinction. A question fairly arises and presents itself at the threshold of any proposition of copyright, whether this commercial spirit is identical with, and friendly to, the progress of science. Considering the undeniable fact that a larger portion of authors are now writing for gain than formerly, and that publishers have come to estimate their writings by the profits likely to accrue from their publications, can it be inferred that from such a union of literature and commerce the highest interests of science are likely to be promoted? Under the influence of this union, can it be denied that a class of books are put upon the market which, in literary quality, bear slight resemblance to the productions of genius, and others, where the attribute of authorship could not well be discovered? and yet these all seek shelter under the law of copyright, and enjoy that exclusive privilege designed alone for genius and the votaries of science.

While, doubtless, the constitutional provision had its origin in the belief in the identity of the interests of authorship and science, it is true that the law of copyright, as it lies in the Constitution, is not the protection of authors as an object—not as the reward of genius independent of science, but as an incentive to the former in the interests of the latter.

Is the question of authorship, in its relations to science, so simple and of such universal application as to be productive of equally beneficial results when subjected to the method of the Constitution as a rule for the different nations and differing conditions of letters therein?

Authorship, standing by itself, although the essential element, still, it is not all the world of letters, and cannot in any measure, having at heart the interests of literature, be considered as standing independent and by itself. If it be conceded to be the soul of science, it is essential that its productions should be embodied in books, and these involve the varied skill, industries, and cunning workmanship of many hands, and at last, and not the least important agency, the enterprise, capital, and address of the publisher through whom these books are to be introduced to the reading public.

These interests press upon the legislator at the very threshold of any measure of international copyright, demanding consideration and protection. The right conferred upon the foreign author, a variety of questions of labor, art, skill, and the like, enter into the practical question, and force upon consideration the chances of ruinous monopolies at the world's great book-centers, when competition and a provident share in opportunities would seem to be our necessity.

The question before us is not national copyright, but whether the monopoly of the foreigner in his work, enjoyed in his land, can, in the interests of science, fairly be claimed for him in every land where his work may be printed. The English author has the exclusive privilege secured to him as an incentive to his genius. Does it need the further stimulus of privilege in other lands? And if so, can such privilege be considered as demanded in the interests of literature, or would the fruits of such encouragement compensate for the natural repression of the diffusion of knowledge? Assuming now that the measure cannot be commended or rightfully demanded in the interests of authors alone, that of authors and publishers combined, it remains to be seen

whether the facts justify the conclusion that the measure can be granted in the interests of science.

It will doubtless be conceded that international copyright would have the effect to enhance the price of books of foreign authorship in the American market, and a tendency and the probable effect to increase the price of the American copyrighted book in our own market.

While it may be conceded that the tendency of the law of copyright is to stimulate the production of literary and scientific works, it is believed to be equally true that one of its effects is to repress the popular circulation of such works. Such, it is apparent, must be its natural tendency, and such is understood to be the fact in this country and in England, especially the latter. As a general proposition, during the existence of copyright, the interests of both publisher and author are best consulted by a small edition and consequent limited circulation, as a larger profit may be realized from a small edition at high rates than the reverse. Notable instances may be given in proof of this general proposition in England and our own country. The average price of seventy-five English books, as given below, is \$5.60, and the average price of the American reprints of the same books is only \$2.40.

The lowest prices of some English books reprinted in America. (The American prices are generally taken from Bibliotheca Americana, 1820 to 1866, or American Catalogue, Kelly, 1866 to 1871.)

Name of author and title of work.	English price—		Price of American reprint.
	In sterling.	In gold.	
	<i>s. d.</i>		
Alison, Life of Marlboro	30 0	\$7 50	\$1 75
Aytoun, Scottish Cavaliers	7 6	1 87	1 50
Ballads and Fermilian	13 6	3 37	1 50
Browning, Mrs., Poems	30 0	7 50	1 50
Belcher's Mutineers of the Bounty	12 0	3 00	1 50
Burton's Lake Regions of Africa	31 6	8 00	3 50
Bulwer, Athens—its Rise and Fall	31 6	8 00	1 50
Caxtoniana	21 0	5 25	1 75
Novels	2 6	62	50
Lady Budget, &c.	31 6	8 00	2 50
Braddon, Miss, Girls' Book	4 6	1 25	90
Lovers of Arden	31 6	8 00	75
Conybeare & Howson, Life of Saint Paul, (complete)	48 0	12 00	3 00
Collins, Poor Miss Finch	31 6	8 00	50c, 1 00
Darwin, Variation of Plants, &c.	28 0	7 00	6 00
Dixon, Free Russia	32 0	8 00	2 00
Fair France	16 0	4 00	1 50
Dickens's works	132 0	33 00	10 50
Dilke's Greater Britain	28 0	7 00	1 00
Desert of the Exodus	28 0	7 00	3 00
Foster's Life of Landon	28 0	7 00	3 50
Life of Dickens	12 0	3 00	2 00
Guizot's Meditations	10 0	2 50	1 75
Grote's Greece, per volume	8 0	2 00	2 00
Gould's Origin of Religious Belief	15 0	3 75	2 00
Goulbourn's Sermons	6 6	1 62	1 00
Huxley's Lay Sermons	7 6	1 88	1 75
Holland's Recollections	10 6	2 62	2 00
Heman's Poems	12 6	3 12	75
Hughes, Tom Brown at Oxford		1 75	50
Tom Brown's School-Days at Rugby		1 75	75
Harveis, Music and Morals	12 0	3 00	1 75
Jowett's Plato	120 0	30 00	12 00
Kingslake's Crimea	32 0	8 00	2 00
Kingsley's At Last	20 0	5 00	1 50
Ravenshoe	31 6	8 00	1 75
G. Hamlyn	6 0	1 50	1 25
Layard's Ninevah	36 0	9 00	1 75
Lever, Lord Kilgobbin	31 6	8 00	75
Lockhart, Fair to See	31 6	8 00	75
Mulock, Hannah	21 0	5 25	50
Girls' Book	4 6	1 25	90

The lowest prices of some English books reprinted in America, &c.—Continued.

Name of author and title of work.	English prices.		Price of American reprint.
	In sterling.	In gold.	
	<i>s. d.</i>		
Morley's Voltaire.....	14 0	\$3 50	
Macgregor, Rob Roy on the Jordan.....	12 0	3 00	\$2 50
Oliphant's China.....	21 0	5 25	3 50
Pressense, Early Years of Christianity.....	12 0	3 00	1 75
Russell's American Diary.....	21 0	5 25	1 00
Robinson's Diary.....	36 0	9 00	4 00
Reclus, The Earth.....	24 0	6 50	5 00
Schelleris, Spectrum Analysis.....	28 0	7 00	6 00
Speke's Africa.....	21 0	5 25	4 00
Sacristan's Household.....	6 0	1 50	75
Stanley's Jewish Church.....	24 0	6 00	5 00
Eastern Church.....	12 0	3 00	2 50
Sinai and Palestine.....	14 0	3 50	2 50
Trollope, Harry Hotspur.....	9 0	2 25	50
Can you Forgive Her?.....	12 0	3 00	1 50
Orley Farm.....	12 0	3 00	1 50
Thackeray's novels.....	7 0	1 75	50 to 75c
Tyndall, Heat.....	10 6	2 62	2 00
Sound.....	9 0	2 25	2 00
Tennyson's works, incomplete.....	9 0	2 25	75
The Speaker's Commentary.....	30 0	7 50	5 00
Vambey's Asia.....	21 0	5 25	4 50
White's St. Bartholomew.....	16 0	4 00	2 50
Wilfred Cumbermede, (George Macdonald).....	31 6	8 00	1 75
Wood's Homes without Hands.....	21 0	5 25	4 50
Bible Animals.....	21 0	5 25	4 50
*Whymper's Alaska.....	16 0	4 00	
Wallace's Malay Archipelago.....	24 0	6 00	3 00
Warren's Ten Thousand a Year.....	9 0	2 25	1 50
Spencer's Psychology.....	18 0	4 50	1 50
Essays.....	16 0	4 00	2 50
Biology.....	34 0	8 50	5 50
Total.....		421 22	184 80

The same general fact may be further illustrated by comparing the prices of English books reprinted here with the prices here of American copyrighted books of a similar character.

<i>English reprinted.</i>		<i>American copyrighted.</i>	
Dixon's Free Russia.....	\$2 00	Bush Reindeer Dogs, &c.....	\$3 50
Kingsley's At Last.....	1 50	Cox's Winter Sunbeams.....	3 00
Kinglake's Crimea.....	2 00	Motley's Histories.....	3 50
Macaulay's Histories.....	1 50	Bancroft.....	3 00
Hallam.....	2 00	Kirke's Charles the Bold.....	3 00
Dilke's Greater Britain.....	1 00	Prime's Around the World.....	3 00
Dickens's novels.....	50-75	Hawthorne.....	2 00
George Eliot's novels.....	75	Mrs. Stowe.....	2 00
Charles Reade's novels.....	25-75	Bayard Taylor.....	1 50
Robertson's Sermons.....	1 50	Beecher's Sermons.....	2 50
Tennyson's Poems.....	75	Longfellow.....	1 50
Grote's Greece.....	1 50	Draper's Civil War.....	3 50
Hume's England.....	1 50	Hildreth's United States.....	3 00
Muller's Science of Religion.....	2 00	Hodges's Anthropology.....	4 50
Palmeir's Desert of the Exodus.....	3 00	Thomson's Land and the Book.....	5 00
Wallace's Malay Archipelago.....	3 50	Agassiz's Brazil.....	5 00
Froude's Short Studies.....	1 50	Bancroft's Miscellanies.....	3 00
Barrow's Arctic Voyage.....	1 00	Bancroft's Miscellanies.....	2 50
Layard's Nineveh.....	1 75	Hayes's Arctic Boat Journey.....	3 00
Burton's Regions of Central Africa.....	3 50	Stephens's Egypt.....	6 00
English Common Law Reports.....	4 00	Stephens's Central America.....	6 00
Exchequer Reports.....	4 00	Wallace's Reports.....	7 50
Bulwer's Queen's Bench.....	6 00	Blatchford's Reports.....	7 50
Bulwer's Common Pleas.....	6 00	Abbott's Reports.....	8 00
		Lansing's United States.....	

* Complete.

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<i>English reprinted.</i>		<i>American copyrighted.</i>	
Equity Cases, M. Rolls.....	\$6 00	Chancery, 8 c't, of N. Y.....	\$7 50
Daniel's Chancery Practice, 3 vols..	15 00	Fisher's Patent Cases, 3 vols.....	75 00
De Witt's Surgery	4 00	Ashurst's Surgery.....	6 50
Total.....	<u>78 70</u>	Total.....	<u>181 00</u>

And a similar effect will be observed by comparing the home prices of American copyrighted books with their prices when reprinted in England.

The English prices are generally taken from the English catalogue by Sampson Low, 1835-1862.

Name of author and title of work.	American price.	English price—	
		In ster-ling.	In gold.
		<i>s. d.</i>	
Abbott, Franconia Stories.....	\$0 90	1 0	\$0 25
Learning to Read.....	90	1 6	37
Young Christian.....	1 75	1 0	25
Child at Home.....	1 00	1 0	25
Barnes, Four Gospels	3 00	5 0	1 25
Acts.....	1 50	2 6	62
Beecher, H. W., Eyes and Ears.....	1 75	3 6	87
Lectures to Young Men.....	1 50	1 6	37
Royal Truths.....	1 75	3 6	87
Cooper, novels, per copy	75	1 0	25
Curtis, G. W., Lotus-Eating	1 50	3 6	87
Nile Notes.....	1 50	1 0	25
Du Chaillu, Country of Dwarf	1 75	1 6	37
Greenwood, Grace, Forest Tragedy	1 25	1 0	25
History of my Pets.....	1 00	1 0	25
Hawthorne, House of Seven Gables	2 00	1 0	25
Twice-Told Tales.....	4 00	2 0	50
Scarlet Letter.....	2 00	1 0	25
Holmes, O. W., Autocrat of Breakfast Table.....	1 50	2 6	62
Professor at Breakfast Table	1 75	3 6	87
Elsie Venner.....	3 00	2 0	50
Irving, W., Life of Goldsmith	1 50	1 0	25
Life of Columbus	1 75	2 6	62
Knickerbocker.....	1 75	1 0	25
Jarves, J. J., Parisian Sights	1 50	1 0	25
Longfellow, Miles Standish.....	1 25	1 0	25
Outre Mer	1 50	2 0	50
Hiawatha.....	1 50	1 0	25
Poems, complete.....	1 50	2 0	50
Lowell, Bigelow Papers.....	1 50	2 6	62
Vision of Sir Launful.....	75	2 0	50
Melville, Omoo	1 50	1 0	25
Typee	1 50	1 0	25
Parton, Life of Greeley.....	2 50	7 6	1 87
Phelps, Rev. A., Still Hours	1 00	1 0	25
Prescott, Philip II	4 50	5 0	1 25
Mexico	6 00	5 0	1 25
Ferdinand and Isabella	6 00	5 0	1 25
Robinson, Greek Lexicon.....	6 00	8 6	2 12
Stowe, Mrs., Pearl of Orr's Island	2 00	5 0	1 25
Uncle Tom.....	2 00	2 6	62
Minister's Wooing.....	2 00	2 6	62
Sedgwick, Miss, Hope Leslie.....	3 00	1 0	25
Linwoods.....	3 00	2 8	66
Married or Single	3 00	2 0	50
Sigourney, Mrs., Letters to Mothers.....	1 50	2 0	50
Letters to Young Ladies.....	1 50	1 6	37
Squiers, Wackna.....	1 50	1 0	25
Thomson, Land and the Book	5 00	7 6	1 87
Taylor, B., El Dorado	2 25	2 0	50
At Home and Abroad.....	2 25	3 6	87
Thoreau, Walden.....	2 00	6 0	1 50
Upham, Professor, Madame Guyon.....	3 00	7 6	1 87
Interior Life.....	1 50	3 6	87
Emerson, R. W., Conduct of Life	2 00	1 0	25
Representative Men.....	2 00	1 0	25
English Traits.....	2 00	1 0	25
	121 05		36 06

From the above exhibits it would seem clear that the law of copyright, as existing in England and this country, in its practical operations in the two countries, tends unmistakably to check the popular diffusion of literary production by largely increasing the price. This fact could be further illustrated by recurrence to the vast disproportion in the sale of the cheaper reprints and the copyrighted editions in both countries.

England is the great book making and producing nation with which this country has to do, and, consequently, our interests would be most affected by the proposed measure; and that such measure would not promote the progress of science and the useful arts among the American people is believed to be obvious and to admit of little doubt.

The policy of the different states of Europe as to the protection of literary property varies as to the period of time for which it is granted. In England and in this country the protection is ample. The prevailing policy among the nations seems to be to grant such protection to literary property as is deemed a proper incentive to production.

It is questionable whether any system of international copyright could be proposed which would be equally beneficial or just, owing to the different languages prevailing among them.

In view of the whole case, your committee are satisfied that no form of international copyright can fairly be urged upon Congress upon reasons of general equity or of constitutional law; that the adoption of any plan for the purpose which has been laid before us would be of very doubtful advantage to American authors as a class, and would be not only an unquestionable and permanent injury to the manufacturing interests concerned in producing books, but a hinderance to the diffusion of knowledge among the people and to the cause of universal education; that no plan for the protection of foreign authors has yet been devised which can unite the support of all or nearly all who profess to be favorable to the general object in view; and that, in the opinion of your committee, any project for an international copyright will be found upon mature deliberation to be inexpedient.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1873.—Ordered to be printed.

Mr. MORRILL, of Maine, submitted the following

REPORT :

[To accompany bill S. 1339.]

The Committee on Naval Affairs, to whom was referred the bill (S. 1339) for the relief of George W. Lawrence, Damariscotta, Maine, make the following report :

Mr. George W. Lawrence presents a claim against the Government growing out of a contract made with the Navy Department, September 9, 1862, for the construction of two double-end side-wheel gun-boats, the Agawam and Pontoosuc, and light-draught monitor Wassuc, the last dated November 12, 1863. It is alleged that after the contracts were made according to specifications on which the estimate for the construction of the Agawam, Pontoosuc, and Wassuc was based, many changes were made in the original plans of vessels by the Navy Department and the general and local inspectors, necessitating additional labor and materials; and it is further alleged that there was great delay by the Navy Department in furnishing the contractor with drawings and specifications; and it is further alleged that there was great delay in placing on board the vessels Agawam and Pontoosuc the necessary machinery to admit of launching the same; that the changes made in the construction of the Agawam and Pontoosuc, and the long delay caused by the Navy Department and the inspectors, subjected the contractor to very heavy losses; that the great delay in completing these vessels, after having been delivered at the Portland works, as per contract, was owing to the delay in furnishing the machinery for the vessels, which subjected the contractor to large losses by increased wages for labor and the enhanced value of materials; that the contract time for completing the monitor Wassuc was July 12, 1864, but owing to changes and alterations, she was not completed until October 26, 1865, which subjected the contractor to heavy losses. In this case it appears by the contract that the contract was to complete the Agawam and Pontoosuc for launching in 126 days from the date of contract, on January 13, 1863, but in accordance with orders of Admiral Gregory and Inspector Pook, was detained on the stocks, the Agawam until April 21, 1863, and the Pontoosuc May 20, 1863, which was owing to the delay in furnishing the machinery, and that by the terms of the contract the vessels were to be finally completed in 50 days after being delivered at the Portland works. The vessels were delivered as required, the Agawam April 21, 1863, and the Pontoosuc May 20, 1863. Owing to the delay in constructing and placing on board said vessels the

machinery, they were not finally completed till, the Agawam December 9, 1863, and the Pontoosuc May 16, 1864, and the Wassuc October 26, 1865. It is conclusively shown that the alleged changes were properly ordered, and that the delays were not the fault of the contractor. He has suffered losses in large amounts of work done under orders in addition to the requirements of the contracts, and has suffered losses in the increased prices of labor and the enhanced value of materials, which were caused by the delays in completing the vessels. The relief proposed and recommended by the committee is contingent on the positive proof of these allegations to the satisfaction of a court. If they are established the claimant should recover, and as the proof of which, a court can with most propriety hear and determine.

The committee, therefore, report the accompanying bill.

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1873.—Ordered to be printed.

Mr. MORRILL, of Maine, submitted the following

REPORT:

[To accompany bill S. 1340.]

The Committee on Naval Affairs, to whom was referred the bill (S. 1340) for the relief of Larrabee & Allen, of Bath, Maine, make the following report:

Messrs. Larrabee & Allen present a claim against the Government, growing out of a contract made with the Navy Department, September 9, 1862, for the construction of a double-end side-wheel gun-boat Iasco. It is alleged that after the contract was made according to specifications on which the estimate for the construction of the Iasco was based, many changes were made in the original plan of vessel by the Navy Department, and the general and local inspectors, necessitating additional labor and materials, and it is further alleged that there was great delay by the Navy Department in furnishing the contractors with drawings and specifications, and it is further alleged that there was great delay in placing on board the vessel the necessary machinery to admit of launching the same. That the changes made in the construction of the vessel, and the long delays caused by the Navy Department and the inspectors, subjected the contractors to very heavy losses. That the great delay in completing the vessel, after having been delivered in Boston as per contract, was owing to the delay in furnishing the machinery for the vessel, which subjected the contractors to large losses by increased wages for labor and the enhanced value of all materials.

In this case it appears by the contract that the contractors were to complete said vessel for launching in 126 days from date of contract, or January 13, 1863, but, in accordance with orders of Admiral Gregory and Inspector Pook, was detained upon the stocks until March 26, 1863, which was owing to the delay in furnishing the machinery, and that by the terms of the contract the vessel was to be finally completed in thirty days after being delivered at the Globe Works, South Boston.

The vessel was delivered as required, March 24, 1863. Owing to the delay in constructing and placing on board said vessel the machinery, she was not finally completed until March 5, 1864. It is conclusively shown that the alleged changes were properly ordered, and that the delays were not the fault of the contractors. They have suffered losses in large amounts of work done under orders in addition to the requirements of the contract, and have suffered losses in the increased prices of labor and the enhanced value of materials, which were caused by the delays in completing the vessel. The relief proposed and recommended by the committee is contingent on the positive proof of these allegations to the satisfaction of a court. If they are established, the claimants should recover, and as the proof of which a court can with most propriety hear and determine.

The committee, therefore, report the accompanying bill.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 7, 1873.—Ordered to be printed.

Mr. HOWE, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to which was referred the message of the President of the United States of June 1, 1872, returning to the Senate without his approval "An act for the relief of J. Milton Best," having considered the same, ask leave to submit the following report :

The objections of the President are not based upon the ground that the act is unconstitutional, or that it was inconsiderately passed. Neither of those objections could be well urged against it. The constitutional authority of Congress to provide for the payment of a private claim cannot well be denied by any one. That the act in question was passed upon due and upon careful deliberation will not be denied by any one familiar with its history.

The bill was first reported to the Senate from the Committee on Claims, on the 15th of March, 1870. It was debated on the 26th of April, the 12th and 14th days of December, 1870, and on the 4th and 5th days of January, 1871. On the last-mentioned day it passed the Senate, upon a call of the yeas and nays, by a vote of 28 to 15. It failed to pass the House of Representatives during that Congress. It was again reported to the Senate during the present Congress, and on the 8th of April, 1872, it was again briefly debated, and passed by a vote of 27 to 12. In the House of Representatives it was considered on the 8th of May following, when, after a brief debate, it passed the House without a division.

Some statesmen and some jurists have maintained that the proper use of the veto power was limited to the cases of unconstitutional and rash legislation. But the text of the Constitution as well as the usage of the Government sanctions a broader use of the power.

There can be no doubt that the President may interpose his veto to the passage of any bill, however constitutional it may be, and however maturely it may have been considered by the legislature; and there can be no doubt that when he does interpose his veto it can only be overcome by the concurrence of two-thirds of each House of Congress. Thus, in our governmental system, the negative of the President counterbalances the vote of one-sixth of each House of Congress. With the assent of the President a majority of each House can enact a law. Against his dissent two-thirds are required to enact a law.

Since, therefore, the Executive veto paralyzes so large a portion of the legislature, it would seem that it ought not to be interposed but upon substantial and well-considered grounds. And it would seem quite evident that if the Executive assumes the task, with the help of seven

Secretaries, of reconsidering the expediency of all the laws which Congress matures, with the aid of all of its committees and all its members, while he may sometimes correct mistakes, he may also sometimes make mistakes.

The principal objection urged against the act is, that it provides for a claim arising on account of the ravages of war. The message states the circumstances under which the claim arose, as follows:

The bill appropriates the sum of \$25,000 to compensate Dr. J. Milton Best for the destruction of his dwelling-house and its contents, by order of the commanding officer of the United States military forces at Paducah, Ky., on the 26th day of March, 1864.

It appears that this house was one of a considerable number destroyed for the purpose of giving open range to the guns of a United States fort. On the day preceding the destruction, the houses had been used as a cover for rebel troops attacking the fort; and apprehending a renewal of the attack, the commanding officer caused the destruction of the houses.

This destruction the President calls the "ravages of war." That in some sense it was the ravages of war cannot well be denied. That in the same sense, the forage and subsistence consumed, the powder burned, the balls fired, the shells exploded, the guns burst, were the ravages of war, cannot be denied. But the Government has never yet denied its obligation to make compensation for all such ravages.

In the opinion of the committee the house taken from the claimant was taken for the use of the Government. It was torn down and not occupied, because the destruction of the house was deemed more advantageous to the Government than the occupation of it would be. At the same time, its destruction was more injurious to the claimant than its occupation could have been. And, since the Government made that disposition of the house which was most beneficial to the Government, and most detrimental to the owner, it is difficult to see why the claimant should not be compensated for its destruction as much as for its occupation. The message asserts, as "a general principle of both international and municipal law, that all property is held subject not only to be taken by the Government for public uses, in which case, under the Constitution of the United States, the owner is entitled to just compensation; but also subject to be temporarily occupied or even actually destroyed, in times of great personal danger, and when the public safety demands it; and, in this latter case, governments do not admit a legal obligation on their part to compensate the owner."

The committee has not found any such general principle affirmed either in international or municipal law, but has found the very reverse of that to be affirmed by all law, international and municipal.

Among the text writers, Vattel discusses the very question, "Is the State bound to indemnify individuals for the damage they have sustained in war?" "Such damages," he says, "are of two kinds; those done by the State itself, or the sovereign, and those done by the enemy. Of the first kind some are done deliberately and by way of precaution, as when a field, a house, a garden, belonging to a private person, is taken for the purpose of erecting on the spot a town rampart, or any other piece of fortification, or when his standing corn or his store-houses are destroyed to prevent their being of use to the enemy. *Such damages are to be made good to the individual, who should bear only his quota of the loss.*"

The same author speaks of damages caused by inevitable necessity, and he instances "the destruction caused by the artillery in retaking a town from an enemy. These are merely accidents. They are misfor-

tunes which chance deals out to the proprietors on whom they happen to fall."

The distinction between the two kinds of damages is clear; one is the result of accident, the other is the result of design. The sovereign, clothed with the right to make war, has the right to march troops and to fire guns. Damages which are the accidental result of such lawful acts do not constitute a ground of claim. But whatever property the Government takes from its own obedient subjects for the more efficient prosecution of the war, should be compensated for, no matter whether it be forage fed to the cavalry horses, powder burned, timber used on fortifications, houses removed to make way for such fortifications, or houses destroyed to make them more secure.

Grotius asserts the same doctrine. He says:

The king may in two ways deprive his subjects of their right, either by way of punishment or by virtue of his eminent power. But if he do so in the last way, it must be for some public advantage and then the subject ought to receive, if possible, a just satisfaction for the loss he suffers out of the common stock.

Again he says:

The state has an eminent right of property over the goods of the subjects, so that the state or those that represent it may make use of them, and even destroy and alienate them, not only in extreme necessity, but for the public benefit, to which we must add that the state is obliged to repair the damages suffered by any subject on that account out of the public stock.

Mr. William Whiting has discussed the subject of war-claims with direct reference to the liabilities of the United States growing out of the late war. He writes with extreme caution, but even he asserts that—

If the private property of loyal citizens, inhabitants of loyal States, is appropriated by our military forces for the purpose of supplying our armies and to aid in prosecuting hostilities against a public enemy, the Government is bound to give a reasonable compensation therefor to the owner.

Again he says:

When individuals are called upon to give up what is their own for the advantage of the community, justice requires that they should be fairly compensated for it. Otherwise public burdens would be shared unequally.

Again he says:

Public use does not require that the property taken shall be actually *used*. It may be *disused*, *removed*, or *destroyed*, and destruction of private property may be the best public use it can be put to. Suppose a bridge owned by a private corporation to be so located as to endanger our forts upon the banks of a river. To demolish that bridge for military purposes would be to appropriate it to public use.

Dr. Best's house was so located as to endanger Fort Anderson. For that reason it was demolished by military authority. That demolition Mr. Whiting declares to have been a public use. If so, the Constitution imperatively requires that the public shall make compensation for it. Judicial authority is not less explicit than that of the text-writers.

In *Grant vs. The United States*, 1st N. & H. Reports, the court says:

It may safely be assumed as the settled and fundamental law of Christian and civilized states that governments are bound to make just indemnity to the citizen or subject whenever private property is taken for the public *good, convenience, or safety*.

In that case the United States was held to pay for the property destroyed in Arizona, merely to prevent it from falling into the hands of the enemy.

In the case of *Mitchell vs. Harmony*, reported in 13th Howard, p. 115, Chief Justice Taney, delivering the opinion of the court, says:

There are, without doubt, occasions in which private property may occasionally be taken possession of or destroyed to prevent it from falling into the hands of the public enemy ; and also where a military officer charged with a particular duty may impress private property into the public service or take it for public use. Unquestionably, in such cases, the Government is bound to make full compensation to the owner.

If, as the above authorities declare, the State must pay for the property of a citizen destroyed to prevent *it* from falling into the hands of an enemy, *a fortiori* should the State pay for property destroyed to prevent a *garrison* from falling into the hands of an enemy.

Justice Randolph, in the case of *The American Print Works vs. Lawrence*, 1 Zabriskie, 248, says that in—

Cases where the State, by virtue of its right of eminent domain, reserves the property of a citizen and appropriates it to the use of the public ; or in prosecuting some great public work, such as a canal or railroad, even in its sovereign capacity, or through the power delegated to an incorporated company, finds it necessary not merely to take the soil and property of the citizen, but to destroy his mill-seat, divert his water-course, or commit other irreparable damage to private rights in order to effect the great object in view, in such case not only must private rights yield to the interest and wishes of the state, but it is a positive evil suffered by an individual for the supposed gain of the whole community, at the will of that community, and upon every principle of justice the public should make compensation.

The uniform action of Congress has been in strict accord with the principles adjudicated by the courts and declared by the commentators. Congress has recognized the principle in a great variety of cases, and so far as can be discovered has never denied it. The war of the Revolution was fought before we had any constitutional prohibition against taking private property for public use without compensation. The troops for that war were furnished by the several States. Congress did not assume the obligation of making compensation for property taken by the military authority. But it clearly recognized the principle that compensation should be made. Accordingly, in 1784 a resolution was adopted from which the following is an extract :

That it be referred to the several States, at their own expense, to grant such relief to their citizens, who may have been injured as aforesaid, as they may think requisite, and if it shall hereafter appear reasonable that the United States should make any allowance to any particular State, which may be burdened much beyond others, that the allowance ought to be determined by Congress.

In accordance with that resolution, when, in 1818, Mary Brower and others petitioned for compensation to be made to them for property burned and destroyed on Long Island by the American army on the advance of the British forces in August, 1776, the Committee on Revolutionary Claims of the House denied the prayer, not upon the ground that compensation should not be made, but upon the express ground that the sufferers ought to have appealed to the State of New York for such compensation. And notwithstanding the resolution of 1784 Congress did pass an act for the relief of an academy in Wilmington, of which the following is a copy :

That, as an indemnification to the corporation of trustees of the public grammar school and academy of Wilmington, in the State of Delaware, for the use and occupation of the said school, and the damages done to the same by the troops of the United States, during the late war, there be granted to the said corporation of trustees a reasonable compensation, payable out of any unappropriated money in the Treasury of the United States, which compensation shall be ascertained by the accounting-officers of the Treasury.

The relief granted by that resolution was recommended by Alexander Hamilton, then Secretary of the Treasury.

Subsequent to the war with Great Britain of 1812, a large number of claims for similar injuries were compensated by Congress. Reference is made to a few.

An appropriation was made to William H. Washington to compensate him for a house situate near the west end of the Potomac bridge, and which was "destroyed by order of an officer of the United States." The facts of the case, briefly stated, were that a corporal was placed in charge of the house, containing a quantity of public stores, with directions from his superior officer to blow up the house in case of an attack by the enemy. Hearing guns fired on the opposite side of the river, he apprehended an attack, and accordingly blew up the stores. The committee reported that, being of opinion "the officer to whose care the public stores were committed thought it prudent and proper to destroy the house and stores, to prevent the latter from coming into the possession of the enemy, the petitioner should be paid the value of his house." He was paid accordingly.

Jacob Shinnick was the owner of a rope-walk in Baltimore. It was destroyed by General Smith, commanding at that post. He states the circumstances attending its destruction as follows :

That rope-walk and two others were so close to the works that, had they remained, and an attack been made by the enemy, they would have afforded such a cover as would have enabled him to have approached close to the works undiscovered. It became necessary to destroy them. Nor did I give the discretionary power to General Forman until the attack of the enemy appeared certain. Their destruction was postponed as long as prudence permitted, nor were they destroyed until it became absolutely and indispensably necessary.

The committee reported "that the destruction of the rope-walks was deemed by the commanding officer prudent and necessary in the defense of the city of Baltimore, then threatened to be invaded by a merciless and vindictive enemy. They are therefore of opinion that the public good, in his opinion, requiring their destruction, the owners of the property should be compensated to the amount of its value."

The principle applied in the case of Mr. Shinnick is precisely the principle employed in the case of Mr. Best. An attack was believed to be imminent in Baltimore, as an attack was believed to be imminent in Paducah. If an attack had been made in Baltimore the rope-walk would have supplied a cover to the enemy. If an attack had been made in Paducah, Best's house would have furnished a cover to the enemy. In order to deprive the enemy of that shelter, both the rope-walk and the house were destroyed. It is impossible to say that a house is not as much within the protection of the Constitution as a rope-walk. It is impossible to say that Paducah is not as much within the protection of the Constitution as Baltimore. It is impossible to say that Dr. Best is not as much within the protection of the Constitution as Mr. Shinnick. Congress has repeatedly recognized the same principle in acting upon claims growing out of the late war.

In 1867, an act was passed to pay J. O. Armes for a house destroyed in Fairfax County, Virginia. That house was destroyed, as the committee reported, by military orders, and to prevent its being used by the enemy as a cover for attack, and also as a point for observation. That act was approved by President Johnson.

In 1871, Congress passed an act making compensation to the Kentucky University for buildings destroyed. The buildings were taken by military authority. They were destroyed by accident. But if the Government is required to make compensation for buildings taken and then destroyed by *accident*, it is difficult to see why it should not pay for buildings taken and then destroyed by *design*. That act was approved by President Grant.

In 1870 Congress passed an act to pay Otis N. Cutler \$50,000 for cotton taken by military authority to pack the machinery of the steamer Tigris, to enable her the more securely to run the rebel batteries at Vicksburgh. The boat and the cotton were sunk on the trip. That cotton was taken by military authority. It was destroyed by the rebels. But if the Government must pay for property taken by its Army and then destroyed by the *enemy*, it would seem it ought to pay for property taken by its Army and then destroyed by *itself*. That act was approved by President Grant. The papers in the case show that he examined its merits while acting as Secretary of War, and that although he refused to pay the claim for want of authority, he pronounced it "meritorious," and referred the claim to Congress.

One other legislative precedent is worthy of notice. The case of Mitchell *vs.* Harmony has already been referred to. In that case the property of the plaintiff was taken by military authority. As a consequence of the taking, the goods fell into the hands of the enemy. The courts held that the taking was unnecessary, and therefore required the officer in command to make compensation for the loss of the goods. But Congress held that inasmuch as the officer acted in good faith, and for what he believed to be the interests of the Government, the Government ought to protect him against the consequences of his mistake. Congress, therefore, assumed the defense of the officer before the Supreme Court, and when judgment was finally rendered against him assumed the payment of it.

To the foregoing precedents a great many might be added. Not a single case has been found in which Congress has denied the liability assumed in the precedents cited. Not a single authority has been found controverting the principle asserted by Grotius, by Vattel, by Whiting, by the Court of Claims, and by the Supreme Court of the United States.

If the doctrine of the message be examined in the light of examples drawn from other countries, the contrast is still more violent. During the war of the Revolution, most of the colonists who adhered to the Crown, and were therefore known as loyalists, were made to suffer heavily because of their loyalty. The insurgent authorities drove them from their homes and confiscated their estates. The war terminated in the triumph of the insurgents. At once the despoiled loyalists appealed to Parliament for indemnification for their losses. A commission was appointed to inquire into the extent of such losses. The "claimants were required to state in proper form every species of loss which they had suffered, and for which *they* thought they had a right to receive compensation." None of the injuries complained of were inflicted by the government of Great Britain. They were inflicted by the action of its enemies. In principle, their claims were precisely the same as the claims of our loyal citizens would be if they were to demand compensation of this Government for injuries sustained, not through its action, but through the action of its late enemies. Nevertheless, for such claims Parliament undertook to make compensation, and after a long and careful examination of the claims, appropriated a sum for their settlement amounting, in the aggregate, to more than \$16,000,000.

In September, 1871, immediately upon the close of the Franco-German war, France, although defeated and subjected to the payment of a fine of 3,000,000,000 of francs to her conquerors, did not ask to avoid the obligation of making compensation to her despoiled subjects. Accordingly the national assembly provided not only for the payment of all damages inflicted by the French authorities, but also provided

for the repayment of all exactions made upon French subjects in the name of taxes by the German authorities. The same decree appropriated 100,000,000 of francs, to be placed at once in the hands of the ministers of the interior and of finance, to be apportioned between the most necessitous victims of the war, and appropriated a further sum of 6,000,000 of francs to be distributed by the same ministers "among those who suffered the most in the operations attending the attack made by the French army to gain entrance into Paris." A translation of the whole decree is appended to this report.

The President urges, in support of extreme caution, "that the payment of this claim would invite the presentation of demands for very large sums of money, and such is the supposed magnitude of the claims that may be made against the Government for necessary and unavoidable destruction of property by the Army, that I deem it proper to return this bill for reconsideration."

To this it may be replied that the act passed for the relief of Dr. Best does not provide for the payment of property unavoidably destroyed. On the contrary, it clearly discriminates against and disclaims liability for such payment. The injury done to Best's house by firing upon it while in possession of the enemy, was deemed to be unavoidable. For such injury the Committee on Claims held the Government was not obliged to make compensation. What the committee deemed to be the amount of such damages it deducted from the claim, and only reported for payment that which was supposed to be equal to the value of the property which was deliberately destroyed by the military authorities to promote the security of the garrison.

It may be replied, secondly, that if the principle involved in the bill be just, and be, as has been seen, in accordance with the commands of all law and of all precedent, the Government cannot be excused from making payment to Dr. Best because of the weight of the burdens such payments would impose upon the Treasury. If it took the last dollar of the republic to pay such claims, not one of her citizens would be reduced thereby to more abject want than Dr. Best was by the destruction of his house and its contents. The testimony in the case shows that when his house was destroyed he was stripped of everything in the shape of property except the site on which it stood.

Hugo Grotius wrote his treatise upon the "Rights of War" amidst the unparalleled barbarities which attended the thirty-years' war. It is doubtful if war between civilized nations ever before or ever since has been so cruel as that. In the single "duchy of Wurtemberg, history asserts that eight towns, forty-five villages, and thirty-six thousand houses had been laid in ashes, and seventy thousand hearth-fires completely extinguished; seven churches and four hundred and forty-four houses had been burned at Eichsted. Many towns that had escaped destruction were almost depopulated; three hundred houses stood empty at Nordheim. More than two hundred had been pulled down at Gottingen, merely to serve as fuel. The wealthy city of Augsburg, which contained eighty thousand inhabitants before the war, had only eighteen thousand left when it closed. * * * In 1635 there were not hands enough left at Schweidnitz to bury the dead, and the town of Ohlau had lost its last citizen. * * * Forests sprang up during the contest and covered entire districts which had been in full cultivation before the war, and wolves and other beasts of prey took possession of the deserted haunts of men."

Yet standing in the midst of such wide-spread, unsparing devastation, Grotius did not hesitate to affirm, in the language already quoted, the

obligation of the state to repair all damages suffered by any subject by the destruction of his property for its use, and he added this most significant injunction: "Neither shall the state be absolved from this obligation though for the present not able to satisfy it. But whenever the state is in a capacity, this suspended obligation shall resume its force."

In the light of such stern teachings, he who regards law or loves justice will be reluctant to see a loyal citizen reduced by the deliberate act of his Government to absolute destitution and then turned away from the full tills of the Treasury which carry from year to year unused millions, a single year's interest on which would compensate for every injury coming within the principle of Dr. Best's claim. There is no warrant for believing that the principle recognized by the returned bill would involve the Treasury in large disbursements. It has already been seen that the bill establishes no new precedent. Congress has already paid several claims resting upon precisely the same principle. It has voted to pay every such claim which has been presented. From the foundations of the Government it cannot be discovered that Congress has ever refused to pay a similar claim. If, as some profess to apprehend, similar claims for millions await payment, the question arises, Where are they? During the eleven years which have transpired since the late war commenced, the whole amount of claims of every kind, recommended for payment by the Senate Committee on Claims, excluding those reported from the claims commission, will fall considerably below a million. An examination made upon this point in January, 1871, disclosed the fact that but \$555,651.55 had at that date been paid since the close of the war. That sum included \$109,000 paid to one firm for property sold, the proceeds of which had been placed in the Treasury, and it included \$60,000 appropriated to another individual for legal-tender notes which had been destroyed. So at that date it appeared, and was stated on the floor of the Senate, that the Treasury had not been made poorer by the action of the Committee on Claims to an amount exceeding \$400,000. When we consider the magnitude and the duration of the war through which we have passed; when we consider the munificent appropriations made by France to her subjects, no one of whom could have suffered more from deprivation of property than Doctor Best has suffered; when we consider that Great Britain appropriated to the few loyalists who adhered to her cause during the Revolution more than \$16,000,000, the meager appropriations hitherto made by Congress seem quite inconsiderable, and suggest an apprehension to the candid mind that the Government may have done less than justice, instead of more than justice.

In conclusion, upon this point, the committee respectfully submit that no claim ever was or ever can be preferred against the Government resting upon more impregnable grounds. All just claims against the Government must be urged upon one or more of three grounds—either that the claimant has benefited the Government, or that he has been damaged by the Government, or that he has been promised money by the Government. But a promise is of slight validity if it be unsupported by a consideration, either of benefit to the promisor or of loss to the promisee. Where such consideration does exist, a promise adds nothing to the obligation to pay. In the case of Doctor Best, his claim is supported both by the consideration of loss to him and of benefit to the Government. He was injured by being deprived of all he possessed. The Government was benefited by the additional security afforded to a weak and imperilled garrison. No promise could add validity to such

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The message suggests a doubt as to the reasonableness of the appropriation made to Doctor Best. It furnishes no evidence upon that point. In estimating the value of the house destroyed, the committee were guided originally by the testimony of those who built the house. Since the reference of the veto message, the claimant has submitted to the committee plans of the building, verified by the affidavit of John V. Gould, city engineer of the city of Paducah. The plans disclose a building fifty-two feet in width by forty feet in depth and three stories in height, besides the attic; that the first story was eight feet high, the second story fifteen feet, and the third thirteen feet; that it was built upon stone foundations laid in hydraulic cement, four feet deep and two feet thick; that it had twenty-six paneled doors, six of which were of large size; that it had twenty-six windows of the largest size, besides sidelights to the doorways; that it had twenty-six pairs of window-shutters, twelve fire-places with mantles and grates, eight hearths which were formed and laid of iron slabs, each slab being four feet wide by seven feet long; that it had four flights of stairs; that its roof was covered with copper and sheet-iron. It seems to have been a large and substantial brick house, elegantly finished. Six witnesses testify that the house, with its contents, was worth over \$27,000. The character of the witnesses is attested by the collector of the port. Yet, if the building was worth but half the sum at which the witnesses estimate its value, the appropriation of \$25,000 now will scarcely make the claimant whole.

The committee, therefore, report back the bill, and recommend its passage, the objections of the President to the contrary notwithstanding.

[Official journal of the French republic, Versailles, September 11, 1871.]

The National Assembly has adopted. The president of the French republic promulgates the law, the tenor of which is as follows:

Considering that, during the late war, the portion of the territory invaded by the enemy bore exactions and suffered devastations without number; that the sense of patriotism which animates the heart of the French people enjoins upon the government the duty of indemnifying those who have, in the common conflict, undergone these exceptional privations. The national assembly, without intending to depart from the principles laid down in the law of July 10, 1791, and the decree of August 10, 1853, decree:

ARTICLE 1. An indemnification will be allowed to all those who have borne, during the invasion, the contributions of war, requisitions either in money or in kind, fines, and material damages.

ART. 2. These contributions, requisitions, fines, and damages will be verified and estimated by the cantonal commissions who act for the time being under the direction of the minister of the interior. A departmental commission will revise the labor of the cantonal commissions and fix the definite sum total of the losses proven. This commission will be composed of the *préfet*, president, four counsellors-general designated by the council-general, and of four representatives of the ministers of the interior and finances.

ART. 3. When the extent of the losses shall have been thus verified, a law will fix the sum the state of the public treasury will permit to be appropriated for their indemnification, and determine the distribution of the same.

A sum of one hundred millions will be immediately placed at the disposition of the minister of the interior and of the minister of finances, and apportioned between the departments *pro rata*, according to the losses respectively proven, to be distributed by the *préfet*, assisted by a commission appointed by the council-general and taken from its number, between the most necessitous victims of the war, and the *communes* the most involved in debt. This first allowance will be part of the sum total assigned to each department to be distributed among all the claimants.

ART. 4. A sum of six million francs is placed equally at the disposition of the ministers of the finances and of the interior, to be, without further legislative enactment,

distributed among those who suffered the most in the operations attending the attack made by the French army to gain re-entrance into Paris.

ART. 5. Independently of the preceding provisions, the contributions in money, collected under the title of taxes by the German authorities, will be settled as follows:

SEC. 1. The *communes* that have paid any sums under the title of taxes will be re-im-bursed their advances by the treasury.

SEC. 2. The tax-payers who will prove payment of any sum under the same title, either into the hands of the Germans, or to the French municipal authorities, will be permitted to apply the whole sum on account of their contributions for 1870 and 1871. They will be required to produce their vouchers within the period of a month.

SEC. 3. The settlement specified above will comprise:

1. The whole sum of the French direct tax.

2. The double of that tax, as showing the indirect taxes levied by the Prussians.

All that which in the payments will exceed the direct tax doubled, will be considered as simple contribution of war, and governed by the principles laid down in the preceding articles.

Deliberated in public sessions, at Versailles, July 3, August 8, and September 6, 1872.

President,

JULES GRÉVY.

Secretaries:

PAUL BETHMONT.

VISCOMTE DE MEAUX.

PAUL DE RÉMUSAT.

BARON DE BARANTE.

MARQUIS DE CASTELLANA.

N. JOHNSTON.

President of the Republic,

A. THIERS.

Minister of the Interior, F. LAMBRECHT.



IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1873.—Ordered to be printed.

Mr. BOREMAN submitted the following

REPORT :

[To accompany bill S. 1556.]

The Committee on Claims, to whom was referred the petition of William Spence, praying compensation for property taken and used by the Army of the United States, in the years 1862 and 1863, beg leave to report :

The claimant is a citizen of Tennessee, and for many years prior to the late war, and during the same, he resided near Murfreesborough in that State. His loyalty was, and is, of the most positive and unquestionable character. He was the owner of a large amount of real and personal estate in and near Murfreesborough, consisting of lands, dwelling-houses, flouring-mill, distillery, grain, flour, horses, cattle, hogs, &c.

In the years 1862 and 1863 his lands, houses, mill, distillery, &c., were seized and occupied by the military authorities under Generals Rosecrans, Sheridan, and other officers, and in some instances greatly damaged, and in others entirely destroyed; and his personal property was appropriated and used by said authorities for the Army. He files with his petition an account thereof, amounting in the aggregate to \$108,662. The claimant never received vouchers or receipts for the property so taken.

During the war, and about the time when his property was occupied and seized as aforesaid, a claims commissioner was detailed by the officer in command to appraise it; but before that duty was fully executed the Army removed from the place, and the duty of the commission was not fully performed. The evidence then taken, however, was in part preserved, and is filed with claimant's petition.

Since the termination of the war, the claimant presented his account to the War Department for settlement; and on the 11th March, 1868, Secretary Stanton issued the following order, which, as it states the character and amount of the petitioner's claim in detail, is here inserted at length:

WAR DEPARTMENT,
Washington City, March 16, 1868.

SIR: Mr. William Spence, of Murfreesborough, has presented certain claims against the Government, herewith inclosed, for property taken and used for military purposes under the orders of Generals Mitchell, Nelson, Rosecrans, and Sheridan; and for damages and destruction of property by the troops under those generals while in command at that point. He has furnished some evidence in support of those claims, but which, not being of an official character, is not of itself sufficient to justify the allowance by this Department of such of them as it is within the power under existing laws to pass upon.

The following are the claims:

Claims for property taken for military use.

QUARTERMASTER'S DEPARTMENT.

1. Five mules, taken by Major-General Nelson at Murfreesborough, Tennessee, in July, 1862.....	\$625 00	
2. Three thousand five hundred cords of wood, taken by General St. Clair Morton, for use of army under General Rosecrans, between January and June, 1863.....	7,500 00	
3. Six thousand cords of wood, taken for use of the army under General Rosecrans, between January and June, 1863.....	14,000 00	
4. Four thousand five hundred cords of wood, taken for the use of the army under Major-General Philip Sheridan, between January and June, 1863..	10,000 00	
5. Materials of railroad-track from Rio Mills to depot, 104 lengths of iron, with all the chairs, spikes, cross-ties, &c.....	\$3,200 00	
5 head oxen.....	300 00	
250 wheat-sacks.....	87 50	
		3,587 50
(Taken for the use of the army under General O. M. Mitchell, at Murfreesborough, by his orders, in March, 1862.)		
6. Buildings and property taken from claimant's lot in Murfreesborough, known as the Rio Mills.....	\$3,000 00	
200,000 barrel staves, at \$12 per thousand.....	2,400 00	
5,723 panels of cedar fencing, taken from claimant's farm and used as fuel for the use of the army under General Rosecrans, during February and March, 1863, at \$1.50 per panel.....	8,584 50	
		13,984 50
7. Lumber taken off sixty acres of cedar land, at \$65 per acre, taken by the army under General Rosecrans, at Murfreesborough, up to June 16, 1863	3,900 00	
8. To all the machinery in machine-shop, and the engine-boiler from the foundry, and all the necessary tools to carry on the foundry business with, taken by the army under General Rosecrans, at Murfreesborough, up to June 15, 1863.....	4,000 00	

SUBSISTENCE DEPARTMENT.

1. 150 hogs.....	\$2,025	
5 mules (already charged, see Quartermaster's Department)...	625	
7 head cattle.....	252	
85 shoats.....	510	
To use of five four-mule teams and drivers, six days, at \$10 per day, each.....	300	
Total taken by the army under General Nelson, at Murfreesborough, in July, 1862.....		3,712 00
2. 4 large mules.....	500	
1,500 sacks of wheat, rye, and barley, two bushels in a sack, 3,000 bushels.....	3,000	
1,500 sacks, containing above, at thirty-five cents.....	525	
		4,025 00
(Taken by the army under Colonel Hazen, (now General Hazen,) at Murfreesborough, and sent to Nashville about the 3d of September, 1862.)		
3. 16 mules.....	\$2,000	
6 fine mares.....	875	
1 horse.....	150	
1 mare and colt.....	150	
1 mare and mule colt.....	150	
1 stud-horse.....	200	
1 Morgan mare.....	200	
20 milch cows.....	800	
16 head two-year-old cattle.....	320	
1 Durham bull.....	50	
17 one-year-old cattle.....	170	
32 calves.....	192	

15 hogs	\$225	
125 shoats	750	
17 large sows	340	
2 work-oxen	80	
		\$6,652 00

Claims for use and occupation of real estate.

1. To rent for use and occupation of claimant's flouring-mill, at Murfreesborough, from the 10th of January, 1863, to 10th of May, 1865, twenty-eight months and six days, at \$500 per month	14,100 00
To estimated expense of repairs necessary to put mill in as good condition as when taken possession of by the United States, reasonable wear and tear excepted	10,000 00
	24,100 00

Taken possession of by the Subsistence Department, under the direction of Captain Leach, commissary subsistence, on the 10th January, 1863. (See report of board of assessors, convened under Special Orders No. 6, headquarters first brigade, district Middle Tennessee.)

Claims for damage and destruction of property by the Army.

1. To one distillery building, with all the machinery, rectifying-house, &c., from 600 to 800 gallons capacity per day, taken and removed by the army under General Rosecrans, at Murfreesborough, up to the 15th June, 1863	\$12,000 00
2. To damage done to claimant's property on the west side of the town of Murfreesborough, on Lytle's Creek, occupied by Mrs. Campbell and family, occasioned by the taking away of all the plank fencing, stable, two-story log house, large frame cooper-shop, all the picket fencing, &c., taken by the army under General Rosecrans at Murfreesborough, up to the 15th June, 1863	2,000 00

The Secretary of War requires that there should be an investigation by some competent officer in the military service in respect to the aforesaid claims, and the amount that should be justly allowed to Mr. Spence by the Government. This examination, after the lapse of time that has occurred, will no doubt be attended with some difficulty. But it is believed that a practical result, adequate to the purposes of justice, can yet be arrived at. The investigation with regard to those claims which are within the jurisdiction of the Quartermaster General and Commissary General of Subsistence, under the act of July 4, 1864, should be directed specifically to the following points:

1. The quantity of property embraced in each claim that was taken and applied to military purposes, and its particular use or application.
2. The value of such property.
3. The commanding officer or officers by whom it was taken.
4. The time when the taking, in application to military purposes, occurred.
5. The nature of the proof or evidence in support of the claim, including the names of the witnesses.

With regard to the other claims, the circumstances of the property destroyed or damages incurred should be stated, as well as the full amount of pecuniary injury really sustained; the time of the occurrence; the names of the officers commanding the troops, and the nature of the proof or evidence in support of the claims, and the names of the witnesses.

The claims are referred to you for your investigation upon these points, and you will immediately engage in it upon receiving these instructions, proceeding with all practicable diligence, and making as full and speedy report as can be accomplished.

Your obedient servant,

EDWIN M. STANTON,
Secretary of War.

Brevet Major-General WM. P. CARLIN,
Nashville, Tennessee.

General Carlin executed said order, and in April, 1868, made a report of his proceedings, as follows:

BUREAU REFUGEES, FREEDMEN AND ABANDONED LANDS,
OFFICE ASSISTANT COMMISSIONER STATE OF TENNESSEE,
Nashville, Tennessee, April, 1868.

SIR: In obedience to instructions contained in your communication, dated March 15, 1868, directing an investigation into the merits of certain claims of Mr. William Spence of Murfreesborough, Tennessee, for damages to and property taken from him by the United

States military authorities during the late war, I have the honor to submit the following report:

Such a considerable period of time has elapsed since the accruing of the claim, witnesses have died and removed to parts unknown; circumstances have escaped the memory of those who were once more or less conversant with them, that, as you suggested, I have found many and almost insurmountable obstacles in the way of arriving at the correctness of the same.

It was desired by Mr. Spence that I should embody into this report the facts testified to by numerous witnesses before certain claim commissioners formerly held in this city and in Murfreesborough, but I have objected to doing so, on the ground that said evidence, in the form of abstracts from the records of said commission and the original affidavits themselves, have already been before the various Departments as evidence in the support of his claims; that said Departments would or had already given said evidence its proper weight, and that a comment upon the same by myself would be a superfluity. I have, therefore, in this report, confined myself to new and additional evidence, and would say that I have sought every *known* source for the obtaining of the same, so much so that Mr. Spence himself, when called upon to know if he could suggest anything further, replied that all evidence for the prosecution had been exhausted.

Affidavits supporting every allegation of this report are hereunto appended, and all referred to by name of the affiant.

Claim for commissary stores.

GRAIN.

In September, 1862, about six car-loads, near three thousand bushels of wheat, barley, and rye, belonging to Mr. William Spence, was taken possession of by the United States military authorities, and shipped to Nashville. Grain at that time was worth in Nashville as follows: Wheat, one dollar per bushel; barley, — per bushel, and rye, — per bushel. The name of the officer taking or ordering the same to be taken is unknown. (See affidavits of George Hodge, C. H. Irvin, Fred. Hyham, Martin Beasley, D. D. Dickey, and James Wilson.)

CATTLE.

During the late war, date unknown, the United States military authorities took from Mr. William Spence, at Murfreesborough, Tennessee, cattle to about the following amount:

Twenty milch cows, weighing 500 pounds each; sixteen steers, weighing 250 pounds each; one hundred and twenty-five yearlings, weighing 200 pounds each, and thirty-two calves, weighing 120 pounds each.

Beef in 1862-'63-'64 was worth at Murfreesborough, Tennessee, twelve cents per pound gross. (See affidavits of Charles Nolan, Augustus Miller, Peter Pique, and James Wilson.)

HOGS.

The United States military authorities, during the late war, date unknown, took possession of and hauled away about five hundred hogs belonging to Mr. William Spence, of Murfreesborough, Tennessee, weight of same was about 250 pounds per hog.

In 1862-'63-'64 pork was worth eight cents per pound gross in Murfreesborough, Tennessee. (See affidavits of Charles Norman, Augustus Miller, Peter Pique, and James Wilson.)

This comprises all that could be learned of commissary stores.

Quartermaster's stores.

RAILROAD-TRACK.

The United States military authorities at Murfreesborough, Tennessee, during the late war, partly destroyed and used private railroad-track belonging to Mr. William Spence. The entire damage to said track estimated at \$2,795. (See affidavits of W. P. Innis and F. P. Meigs.)

WOOD.

The United States military authorities at Murfreesborough, Tennessee, during the years 1862-'63-'64 cut and hauled away from the lands of Mr. William Spence green wood approximating to thirteen thousand seven hundred cords; they also hauled away three thousand five hundred cords cut and seasoned wood. Wood was worth at that time in Murfreesborough, Tennessee, cut and delivered, green, — per cord; dry, — per cord. (See affidavits of W. N. Doughty, Peter Regon, and H. B. Corbin.)

MULES AND HORSES.

The United States military authorities pressed for the use of the Army in and about Murfreesborough, Tennessee, from the 3d of September, 1862, to the 15th of June, 1863, altogether, about thirty mules and eleven horses, valued at \$150 each. (See affidavits of Frederick Higham, James Wilson, George Hodge, and Martin Bailey.)

FOUNDRY AND MACHINE-SHOPS.

The United States military authorities, during the late war, damaged the foundry and machine-shops of Mr. Spence, at Murfreesborough, Tennessee, at one time, (date unknown,) to the amount of \$500, and altogether while they held possession of the same, to the amount of about \$4,500. (See affidavits of Jno. Spence and Ezra Clark.)

MILL.

The United States military authorities, during the late war at Murfreesborough, Tennessee, seized and used the mill of Mr. William Spence, at said place, for the period of two years, (date unknown,) and damaged the same from \$2,000 to \$9,000. (See affidavits of W. N. Doughty and J. E. Brown.)

GAS-WORKS.

The soldiers of the United States Army, during the late war, entirely destroyed the gas-works of Mr. William Spence, at Murfreesborough, Tennessee, damaging said Spence to the amount of about \$2,500. The bricks of said works were used by Captain Bright, then acting commissary of subsistence at Murfreesborough, to build ovens for the Army. (See affidavits of J. D. Vaughn and W. J. Wright.)

The foregoing comprises all the available evidence known, either to myself as a mediator on the part of the United States, or Mr. Spence, the claimant in the case. That a more definite estimate of the amount, time, place, &c., of the losses sustained by Mr. Spence during the late war can now be made, I very much doubt, so great are the obstacles in the way of doing the same.

I would state in justice to Mr. Spence that I have known him in person and by reputation since 1862, having camped for a time upon his land near Murfreesborough, and that his character as to integrity, loyalty, &c., has ever been considered above reproach.

He has been the friend, entertainer, and counselor of our commanders and armies, and is now seeking to recover a portion of his losses sustained in supporting the cause of the Union and right.

I would recommend an equitable settlement with Mr. Spence on the part of the United States as his due, and the only manner, in my opinion, in which his claim can be finally adjusted.

I am, very respectfully, your obedient servant,

W. P. CARLIN,

Bvt. Maj.-Gen. U. S. A., Assistant Commissioner State of Tennessee.

HON. EDWIN M. STANTON,

Secretary of War, Washington, D. C.

The result of this report may be condensed as follows:

Wheat, barley, and rye.....	\$3,000 00
Cattle.....	5,140 80
Hogs.....	10,000 00
Railway, &c.....	2,795 00
Wood, cut and seasoned, 3,500 cords.....	10,500 00
Wood, green, cut by the Army, 13,700 cords.....	13,700 00
Mules, 30; horses, 11.....	6,150 00
Use of mill twenty-eight months and six days.....	3,524 65
Foundry and machine-shops.....	4,500 00
Damage to mill, (lowest estimate).....	2,000 00
Gas-works destroyed.....	2,500 00
	63,810 45

It seems, however, that the War Department has paid on	
account of wood the sum of	\$10,500 00
And on account of the railway	1,085 20
And for use of mill	3,524 65
	15,109 85

The committee, supposing that the War Department intended the payments aforesaid to be payment in full for the wood, consider that part of the account as settled.

The evidence does not definitely show how the foundery, machine-shop, and gas-works were destroyed. The presumption is that they gradually disappeared under the operation of unauthorized depredations by the soldiers, as such property usually did in the presence of an army where strict military discipline was not rigidly enforced, except that it does appear that the bricks in the gas-works were used by the soldiers for the construction of ovens. But the number and value of the bricks so used are not proven. However oppressively these losses must fall upon the claimant, yet as the proof does not show that the foundery and gas-works were taken by competent military authority, or that they were applied to the legitimate and necessary use of the Army, the committee feel constrained to reject these items. Nor does the evidence show, specifically, in what manner the mill was damaged by the use of it while in possession of Government; and a rental therefor having been paid and receipted for by the claimant, this item of damage is also rejected; although several witnesses testify in general terms that the mill was damaged from \$2,000 to \$9,000.

Thus there are left for further consideration only the items of—

Wheat, barley, and rye	\$3,000 00
Cattle	5,140 80
Hogs	10,000 00
Mules and horses	6,150 00
	24,290 80

No vouchers or receipts having been given for any of the property specified in these items by the proper officer, does the evidence show that said property was in fact applied to the legitimate and necessary use of the Army, so as that the Government got the benefit of it?

In the first place it is just such property as would be necessary for the supply of the Army. It is not unreasonable to suppose it was so applied. The presumption is in favor of such a use of it. Then as to the evidence. The claimant himself swears that all the property in these items was actually taken, in many instances he knew the cattle and hogs to be slaughtered and issued to the troops.

1. *As to the grain.*

General Carlin certifies :

About six car-loads, near three thousand bushels of wheat, barley, and rye, belonging to Mr. William Spence, was taken possession of by the military authorities of the United States and shipped to Nashville.

George Hodge testifies :

He is one of the men who loaded the wheat, barley, and rye belonging to Mr. Spence, of Murfreesborough, Tennessee, and which was sent to Nashville in September, 1862, and that there were three thousand bushels shipped in said lot.

Martin Bailey testifies:

He was one of the hands who shipped wheat belonging to Mr. William Spence, of Murfreesborough, Tennessee, in September, 1862, and says that there were at least, if not more than, three thousand bushels.

Frederick Higham testifies:

He saw the wheat, barley, and rye shipped upon the cars at Murfreesborough, Tennessee, for Nashville, Tennessee, to the amount of six car-loads, in the month of September, 1862; that he was present and saw the wheat, rye, and barley belonging to Mr. William Spence loaded upon the cars in September, 1862; that it was on the last train that left Murfreesborough, Tennessee, at the time General Buel's army retreated; that they were two days in loading it; and thinks the statements of witnesses Bailey, Hodge, and Jones can be relied on, and that the quantity stated by them was shipped.

Thomas Sloan, an employé of the United States Government at Nashville, testifies:

Question by the board. Did you, on or about the 1st of September, 1862, receive a quantity of grain shipped by the military authorities from Murfreesborough to Nashville? If so, please state all you know in reference to the seizure of said property and its ownership.—Answer. I received about that time twenty thousand or thirty thousand sacks of wheat, corn, rye, and barley, shipped by the military authorities to Nashville from various points south of that city. Among the lot was a quantity of wheat, rye, and barley, shipped from Murfreesborough, which was, immediately after its receipt, claimed by Mr. William Spence, of Murfreesborough. I think there were fourteen hundred sacks in that lot. Mr. Spence's claim of ownership was allowed by Lieutenant Irwin, quartermaster in charge of such stores, who directed that the grain be turned over to Mr. D. D. Dickey, proprietor of Dickey's Mills, to be ground for the use of the Army. It was so turned over, and Mr. Dickey receipted to me by wagon-tickets for the same. The grain had not been regularly invoiced to us. I do not know by whose order it was seized, and I do not know whether Mr. Spence received any vouchers for it from Lieutenant Irwin.

Frederick Higham, in another affidavit, testifies:

Question. Do you know whether at the time of the evacuation of Murfreesborough by the army under General Buel, in the fall of 1862, Mr. William Spence had a lot of grain stored at the Rio Mills in that place? If you know this to be the fact, state, if you can, the kind, quantity, and quality of said grain.—Answer. I know that he had a large lot of good wheat, barley, and rye, so stated at that time. I cannot state the quantity, but I know that about twelve hundred or thirteen hundred sacks were used in sacking it; and that these did not contain the whole lot. I think there were about fifteen hundred sacks of the grain in all.

Q. What was done with this grain?—A. It was taken by order of Colonel Hazen, who then commanded the post at Murfreesborough, and shipped on the cars to Nashville. It went upon the last train. There were about four or five car-loads of it.

Q. Did or not any of the sacks used in sacking said grain so shipped to Nashville belong to Mr. Spence? If you please, state how many and what was their condition and value.—A. There were about thirteen hundred sacks, belonging to Mr. Spence, filled with wheat at the Rio Mills; they were in good condition and worth about forty cents each. About one-half of them were seamless sacks. The barley and rye were shipped in new sacks belonging to Mr. Spence. These sacks were number one in quality and were worth thirty or thirty-five cents each.

CATTLE, HOGS, MULES, HORSES.**General Carlin reports:**

United States military authorities took from Mr. William Spence about twenty milch cows, weighing 500 pounds each; sixteen steers, weighing 250 pounds each; and twenty-five yearlings, weighing 200 pounds each. Also took possession of and hauled away about 500 hogs belonging to Mr. Spence; weight of same was about 250 pounds per hog. Also pressed for the use of the Army * * * * altogether thirty mules and eleven horses, valued at \$150 each.

Such are the conclusions of General Carlin from the evidence taken by him.

Peter Pigon testifies:

That he knows that there were about three hundred hogs (stock) on the plantation of Mr. William Spence at the time that the United States soldiers came and took them away; at that time there were of those which were in the pen and taken away about

two hundred; that he saw these put on Government wagons and taken to Murfreesborough. They were heavy hogs and weighed about 300 pounds. He further testifies that there was another pen in the town of Murfreesborough, attached to Mr. Spence's distillery, and [that] it could hold about five hundred hogs, and was nearly full of fat hogs and shoats; and he further testifies that these were taken by the Government authorities; that he also remembers General Turchin's taking off all of the cattle on the plantation, on one occasion, but he afterward sent all back but five head which he had killed; and further, that he knows that there were taken, under the order of General Rosecrans, twenty milch cows, sixteen two-year-old cattle, one Durham bull, seventeen one-year cattle, thirty-two calves, and two oxen. That he has no interest whatever in this claim.

George Hodge testifies:

That he was living on the plantation of Mr. William Spence, near Murfreesborough, Tennessee, in June, 1863; that on or about the 15th of said month some United States soldiers came to said premises and said that they had orders from General Hazen to take the mules that were in the stable belonging to Mr. William Spence, and they took from them twenty-five mules; that they were a good set of mules, and he considered they were worth from \$150 to \$200 each; that he also saw the soldiers, a week afterward, take six horses; that he did not see the other horses taken; and that he has no interest in the claim.

Martin Bailey testifies:

That there were twenty-five mules in the stable lot of Mr. William Spence, of Murfreesborough, Tennessee, and that they were all taken by United States soldiers and turned over to other soldiers in Murfreesborough, Tennessee; and that soon after this he was driving Mr. Spence's team of four mules, drawing wood, when they (the United States soldiers) came up and said they wanted them, and took for the Army, out of the wagon, the four mules he had in it; that there were also eleven horses taken from Mr. Spence the same day, which was some time in June, 1863, by the United States soldiers; that this number included some mares and colts; thinks two mares and two colts and one stud-horse; they were taken to Murfreesborough, to the Army; that he has no interest whatever in this claim.

James Wilson testifies:

That he was in the employ of Mr. William Spence, of said county, during the late war, and was particularly in charge of his horses and cattle, and testifies that he saw sixteen mules taken out of the stable lot of said William Spence by United States soldiers, and taken into the town of Murfreesborough, and saw them put into the Government corral; thinks this was in the month of June, 1863; that a commissioned officer was in charge when the mules were taken from the lot; and further, that there were also taken, nearly a month after, on a Friday evening, one gray horse, one black mare from a wagon, as he was hauling wood, by United States soldiers under command of an officer; that they took them to Murfreesborough from there; that in about two weeks afterward they came again to Mr. Spence's plantation near Murfreesborough, and took one stud-horse, one yellow mare, one mule, one sorrel horse, one bay mare and colt, one black mare and mule colt, one chestnut-sorrel mare, one blind-eyed mouse-colored mare, and one sorrel mare; that he also knows that there were four mules taken out of Martin's wagon and which belonged to Mr. Spence; that he has no interest in this claim.

There are other affidavits corroborating, more or less, the foregoing evidence; so that, all the circumstances being considered, the committee are of the opinion that the said grain, horses, cattle, mules, and hogs were received and applied to the legitimate use and benefit of the armies of the United States in such a manner as does create a fair and equitable liability on the Government to make compensation therefor. Accordingly, the committee report the accompanying bill, appropriating the sum of \$24,290.30 in payment of said grain, horses, &c.

The committee beg leave further to state that the evidence very clearly shows the loss to the claimant of all the property specified in the foregoing order of the Secretary of War to General Carlin; that said loss was occasioned by the presence of the United States armies at Murfreesborough; and that the estimated value of said losses does not appear to be extravagant; but, as before stated, the loss cannot be directly and clearly traced to any competent military authority, but seems to be the result of the wanton depredations and trespasses of an undisciplined

soldiery. It ought to be stated, however, that the amount paid by the Quartermaster's Department for the wood taken does not appear to be adequate. The estimate of that Department seems to have been about a dollar per cord. This is entirely inadequate. Nor was the payment for the rails taken from the claimant's railroad equal to their value. The amount paid was \$1,085.20. The value, as ascertained by General Carlin, was \$2,795.

It is quite apparent, from the testimony in regard to the character and capacity of the mills of the claimant, that the rental paid by the Government was also inadequate. Besides, the mills were left by the Government, when it ceased using them, damaged to the amount of at least \$2,000. Some of the committee think the claimant should have further relief in these particulars.

The whole evidence shows a case of grievous hardship to a right loyal, generous, and noble-spirited man, which it does not seem to be within the power of the committee or of the Government fully to redress.

S. Rep. 413—2

It was a very fine day, and the weather was just what we needed. The children were very happy and played for hours. We had a picnic under a big tree, and the food was very good. The children were very tired when we went home, but they were all very happy. The day was very pleasant and we all enjoyed it very much.

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1873.—Ordered to be printed.

Mr. WRIGHT submitted the following

R E P O R T :

[To accompany bills S. 1349 and H. R. 3382.]

The Committee on the Judiciary, to whom was referred House bill 3382 and Senate bill 1349, to r-eimburse John E. Woodward for certain moneys paid by him, respectfully submit the following report :

In 1864 President Lincoln ordered General E. A. Paine, in command of the western district of Kentucky, with headquarters at Paducah, to organize a commission composed of loyal citizens of said district, to make assessments on the property of secessionists and rebels, to re-imburse loyal citizens their losses arising from the raids of Generals Forrest and Buford.

Among other property, General Paine levied on five hogsheads of tobacco claimed by one E. A. Lindsley, and said Paine, having appointed John E. Woodward superintendent of cotton and tobacco brought within the district, ordered said Woodward to sell the same; which he did, after advertisement, in open market, and Samuel Fils became the purchaser for \$2,333.62. Fils sent the tobacco to Louisville, and he was then sued in the Louisville circuit court by Lindsley, who recovered from Fils the value of the tobacco. Fils then sued Woodward in the McCracken circuit court, and recovered judgment for \$2,333.62, which he claims to have paid. The object of the present bill (S. 1349) is to give compensation for the loss thus sustained; the claimant averring that the money received for the tobacco was paid into the Treasury of the United States, and relying upon the act of March 3, 1863, (2 Brightly's Digest, 112,) section 8 of the act of July 28, 1866, and the act of July, 1868. Passing all other questions, we come to one which, in our opinion, is decisive of the bills before us, and that is, has claimant paid this judgment?

Of course, however else entitled, there is no rule upon which he should be relieved until the judgment has been satisfied by him. The Government should not compensate him for a loss which he has never sustained. Upon this question the testimony is far from being satisfactory. True, a small sum was realized by the sale of property, but he does not rely upon this, claiming, as he does, to have paid the whole amount and to be compensated therefor. One execution at least was returned *nulla bona*, and the only evidence of payment is a receipt, dated June 3, 1870, signed by one Husband, who professes to be the attorney of Fils, found at the bottom of the last page of one of the exemplified records before us, and following all other matters therein, including the clerk's certificate. It is in a different handwriting from any other in the

transcript, and it nowhere appears that Husband in all the proceedings acted as the attorney of Fils. Then, too, the clerk's certificate bears date September 11, 1867, while another transcript is certified in July of that year, and in neither of them is there anything to show payment.

But we have also a third transcript, certified on the 7th of January last, purporting to be full, true, and complete, and in it there is no evidence of such payment. And, still again, there is before us the affidavit of Fils himself, made in December, 1872, stating unequivocally that the judgment has not been paid, either in whole or in part, and that Woodward is insolvent.

Upon this state of the case, we would not be justified in finding that Woodward had sustained loss to the amount of said judgment, and he is not, therefore, entitled to relief.

By bill H. R. 3382, (also referred to us,) it is provided that no money shall be drawn from the Treasury, under its provisions, until Woodward pays said judgment. Should this bill pass, is the only remaining question.

We are not prepared, under the circumstances of the case, to so recommend. If not paid, (and such is the weight of the evidence before us,) the appropriation as now asked would be entirely for the benefit of Fils, and he is in no situation to commend himself to special favor. Then, if not paid, this receipt referred to, of June 3, 1870, would appear to be a deliberate attempt to defraud the Government, and Woodward is not entitled to legislation in advance of actual payment. Then, again, we are not prepared to recognize the rule that we should anticipate the payment of what is, at most, a mere *possible* liability.

We recommend that the bills be indefinitely postponed.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 2909.]

The Committee on Claims, to whom was referred the bill (H. R. 2909) for the relief of Joseph L. Haywood and others, submit the following report:

The bill authorizes the proper accounting officers of the Treasury to adjust and settle, at a reasonable sum and on satisfactory proof, the suspended or disallowed items in the accounts of Joseph L. Haywood, late marshal of the Territory of Utah:

1. For compensation of guards, and provisions and supplies for same, and escorting the judges to court, and guarding court-house.
2. For compensation and supplies for aids and guards employed to assist in the execution of process and in guarding prisoners after arrest.
3. For payment of rent of court-room.
4. For marshal's personal expenses incurred while serving process.
5. And for reasonable allowance for guarding and boarding prisoners in the penitentiary.

It provides that the amount allowed shall not exceed \$30,000, and shall be paid from any unexpended balance of appropriations for expenses of United States courts prior to July 1, 1871, and shall be distributed and paid *pro rata* among the holders of the drafts and certificates drawn by said Haywood and now in the Treasury Department.

The suspended and disallowed accounts thus authorized to be adjusted and settled are as follows:

1. Compensation and supplies for aids and guards employed to assist in the execution of process and in guarding prisoners after arrest, suspended. The fee-bill makes no provision for the payment of a <i>posse comitatus</i> , nor for the per-diem fees of guards herein charged with transporting criminals.....	\$19,714 83
2. Compensation of guards, and provisions and supplies for same, escorting the judges to court, and guarding court-house, disallowed; not authorized by law.....	22,017 49
3. Payment for guarding and boarding prisoners in the penitentiary, suspended, for names of guards and prisoners, fuel, record-books, rifle, and other items charged in the penitentiary bills, are disallowed.....	5,128 55
4. Payment of rent for court-room, suspended; must be authorized by the Secretary of the Interior before allowance by the accounting-officers....	1,375 70
5. Per-diem fees of marshal and personal expenses incurred while serving process, disallowed; not charged conformably to the provisions of the fee-bill.....	3,440 09
6. Rent of office, fuel, furniture, &c., for four years, disallowed; payable out of the marshal's emoluments.....	5,400 00
7. Excessive charges for executing the death-penalty on two Indians, suspended for explanation.....	913 30
8. Amount paid for blanks and other articles for use in the marshal's office, disallowed; payable out of the emoluments of the marshal's office, and not at the Treasury.....	704 04

Mr. Haywood was first appointed marshal in 1851, and was re-appointed February 28, 1855. When he went out of office does not clearly appear. The advances made to him for judicial expenses in the Territory, from February 14, 1852, to August 23, 1855, amounted to \$41,931.71. These advances were all made on drafts drawn by him on the Treasury, in favor of individuals, except in two instances of \$3,500 each, when the money was advanced directly to him upon his requisition.

The amount of advances for each year was as follows:

1852.....	\$6,556 87
1853.....	9,146 96
1854.....	1,698 15
1855, (March 3 to August 22).....	24,529 73

This list contained all the amounts charged to the marshal for advances to himself, and for payments to others on drafts in their favor, from the time he was first appointed until his removal, and up to June 11, 1858. (See the letter of Comptroller Medill.)

At the time Mr. Haywood's accounts, from September term, 1855, to January term, 1856, were presented, he stood upon the books of the Treasury a debtor to the extent of \$18,588.30.

It seems from the evidence that, up to a certain day in April, 1855, Haywood was suffered by the Secretary of the Interior to raise money for judicial expenses by drafts on the Secretary of the Treasury, which were cashed by merchants in Utah and forwarded to their correspondents in eastern cities for collection. These drafts were paid up to June, 1855.

He was also in the habit of giving certificates of indebtedness for supplies furnished and services performed for the Government to the parties performing the services and furnishing the supplies. These certificates were purchased by the merchants, and Mr. Haywood, upon application, was in the habit of drawing drafts for the amounts in their favor.

On the 14th of April, 1855, the Secretary of the Interior wrote to the marshal, informing him that this practice of drawing drafts was contrary to instructions, and must be discontinued in the future. He was directed in all cases thereafter to give timely notice of the wants of his office, in order that the amount of funds required by him might be remitted to him direct, or, should he prefer it, placed to his credit with the depository at Saint Louis or New York, subject to his order.

On the 1st of August, 1855, Haywood made a requisition for funds, which was filed in the Department on the 11th of September following. Receiving neither reply nor funds, he proceeded, on the 31st of October following, to issue drafts to the amount of \$10,000; on February 25, 1856, for over \$13,000, and from time to time onward, up to July 12, 1856, when the drafts and certificates of indebtedness given by him for judicial expenses amounted in the aggregate to \$82,753.58. Of this sum \$81,753.58 was furnished by H. S. Eldridge, Gilbert & Gerrish, Eddy, Jamison & Co., Lacost Simond, Livingston Brothers & Kinkead, Livingston, Kinkead & Co., and Hooper & Williams, whose memorial to Congress, of March 1, 1860, is the basis of the present bill. In that memorial they say they were the owners and holders of evidences of debt on judicial account, partly in the shape of drafts on the Treasury Department and partly in certificates signed by Haywood as marshal, to the extent of \$81,753.58, upon which they acknowledge payment of \$23,913.30, leaving due them the sum of \$57,840.28.

II II Memorialists say they were compelled, in order to obtain from
 Q Q at this sum of \$23,913.30, to surrender all their drafts
 D D
 II II
 Q Q
 D D

and certificates as a condition-precedent to its payment. They set forth many reasons, some of them, it must be admitted, of great force, why they should not be concluded by that settlement. Among these reasons are the following :

1. That some of the indebtedness was created before the marshal was notified to discontinue drawing drafts.

2. That the money advanced was actually necessary for the use of the Government, and most of it was advanced upon drafts drawn at the latest possible moment of delay, after ample time had elapsed for a response to Haywood's requisition for funds.

3. That the expenses, though extraordinary in amount, were necessarily created in the arrest and trial of murderers, the holding of distant courts—to be reached only through a wilderness country, inhabited by hostile tribes of Indians—and that they were incurred under the supervision and with the approbation of the judges.

4. They also complain that, under the principle of adjustment established by Comptroller Whittlesey, the entire sum of \$44,170.77 (allowed to the marshal under the provisions of the act of Congress approved August 31, 1852) was due and payable to them as having advanced the money; and that the sum of \$18,588.30, Haywood's indebtedness to the United States under former account, was recoverable under his bond to the United States, under which it was created; and that the action of the Comptroller, in thus appropriating a large part of the allowances to Haywood, brought about by them, had been to release the securities upon his bond, and force the memorialists to submit to the liquidation of his debt to the United States out of funds admitted to be theirs.

This memorial was first presented to Congress March 1, 1860. It will be seen that the memorialists, while admitting a settlement, and a payment by the Government in consequence of that settlement, and while admitting a surrender by them, as a necessary condition of that settlement, of all the drafts and certificates of indebtedness which they held, complain loudly of its injustice, and invoke Congress to set it aside and require the accounting officers of the Treasury Department to re-open the account and simply credit it with the amount paid.

If any claim against the Government can be possibly barred by decisions of the Comptroller of the Treasury or the Secretary of the Interior, by the opinion of the Attorney-General, by formal and deliberate settlement after protracted negotiation, by payment in pursuance of that settlement, by formal receipt, and the deliberate surrender of all evidences of indebtedment, this claim deserves to be regarded as finally disposed of. If it be possible to conclude a party against setting up a claim against the United States by any species of release known to the law or capable of expression in the infirm condition of our language, this claim ought to be barred. More than fourteen years have elapsed since the Government and these claimants shook hands over the settlement and parted mutually satisfied. Repeatedly presented to those charged by the law with auditing accounts against the Government, with expounding the law, with protecting the Treasury, this portion of the claim embraced in the present bill has been condemned. And at last, when the claimants are informed "this much you are entitled to, and no more; this much the Government will pay you for a full, complete, and final receipt; expressing not only that the drafts and certificates you present shall be delivered up and canceled, but the original accounts themselves, of which these are the expression and evidence, shall be deemed extinguished," and they accept all the terms, get the money, and subscribe to the conditions, it looks a little like a breach of good faith, of

honorable obligation, to appeal to Congress to go behind the transaction and wholly ignore it.

The claimants might have come here at first and declined the proposed settlement. It would then have been an open question whether the law had been misapplied or the case presented such equities as to require a special law for their relief. But the case is here and must be disposed of.

Utah Territory was created into a temporary government by act of Congress of 9th September, 1850. The usual machinery of a territorial government was provided for it, such as a governor, secretary, marshal, a chief, and two associate justices. The Territory was to be laid off into three judicial districts, in which district courts were to be held, exercising all the powers and possessing the combined jurisdiction of the circuit and district courts of the United States, the governor assigning the judges to their respective districts, within which they were required to reside. The first six days of every term of these courts were to be appropriated to the trial of causes arising under the Constitution and laws of the United States. The sum of \$20,000 was appropriated and granted to the Territory to be applied to the erection of suitable public buildings at the seat of government. The Constitution and laws of the United States were extended over the Territory and declared to be in force there. The sum of \$5,000 was to be expended in the purchase of a library for the use of the Government officials.

When the claims under consideration arose, the act prescribing the fees of clerks, marshals, attorneys, witnesses, and jurors, passed February 20, 1853, was in force. That laid down a rule of compensation for every service connected with the courts that should be performed. Every duty which a marshal, by virtue of his office, might be called on to perform has its precise value fixed in dollars and cents. In cases where the United States was a party, the marshal, on the order of the court, *to be entered on its minutes*, was directed to pay the jurors and witnesses all such fees as they might appear by such order to be entitled to. The accounts of the marshal for these and his own fees, when the United States were liable to pay them, were to be made out and verified by him under oath and forwarded to the First Auditor of the Treasury. The fee for the service of a warrant was two dollars for each person served; of a subpoena, fifty cents; for travel in going to serve any process, six cents per mile or actual traveling-expenses, at the option of the officer. The fee for traveling from the marshal's residence to the place of holding court was ten cents per mile, and five dollars per day was allowed for attending courts when in session. He was allowed, for transporting criminals, ten cents per mile for himself, and the same sum for each necessary guard and for each prisoner. He was allowed for expenses while employed in endeavoring to arrest, under process, any person charged with or convicted of a crime, the sum actually expended, not to exceed two dollars per day, in addition to his compensation for service and travel. Then he was allowed a commission of 2 per cent. for disbursing money to jurors and witnesses, and for other expenses. The second section of the act allowing marshal's fees is as follows:

And be it further enacted, that there shall be paid to the marshal his fees for services rendered for the United States, for summoning jurors and witnesses in behalf of the United States and in behalf of any prisoner to be tried for capital offense; for the maintenance of prisoners of the United States confined in jail for any criminal offense; for the commitment or discharge of such prisoners; for the expenses necessarily incurred for fuel, lights, and other contingencies that may accrue in holding the courts within the Territory, providing the books necessary to record the proceedings thereof: Pro-

1891	1891	1891	1891
—II	II—II	II—II	II—
1891	1891	1891	1891
—	—	—	—
1891	1891	1891	1891

vided, That the marshal shall not incur an expense of more than \$20 in any one year for furniture, or \$50 for rent of building and making improvements thereon, without first submitting a statement and estimates to the Secretary of the Interior and getting his instructions in the premises.

This section is quoted at length because under it range some of the most startling charges of the marshal in the items disallowed by the Comptroller.

Another section of the fee-act prohibits, under a penalty, the marshal from receiving any other or greater compensation for any services rendered by him than is provided in the fee-act.

There was another provision, that before any bill of costs should be taxed by any judge or other officer, or allowed by any officer of the Treasury in favor of a marshal, he should prove by his own oath, or some other person having knowledge of the facts, that the services charged had been actually and necessarily performed.

We have been thus particular in referring to the law fixing the fees of marshals, in order to show the utter contempt of its provisions which Mr. Haywood exhibited in the presentation of his account.

Take the first item disallowed by the Comptroller. Where is the law which allows the marshal, at the expense of the United States, to escort a judge to his district with a guard of forty men, and guarding the court-house, at an expense of \$22,017.49? We doubt whether the judicial annals of the world will afford a parallel to Judge Stiles's outfit and triumphal procession to Carson Valley, where he was to hold court. We infer from the testimony that the guard was detained there for several weeks, and escorted him back to Salt Lake City, although the law required him to reside in his district. If, as is said, the country through which he was obliged to travel was beset with dangers, it is answered that emigrants in large numbers traveled over that route, and it would not have compromised the dignity of his Government if Judge Stiles, looking to the interest of the Government, had traveled to his district in company with an emigrant party.

We have no patience to go over the disallowed items in detail. They are simply preposterous and outrageous.

It is but just, however, that we should listen to Judge Stiles's vindication. On the 2d of May, 1872, he made an affidavit in this city. In that he says that in 1855 he was one of the associate justices, and resided in Salt Lake City; that the territory was very thinly settled, the Indians troublesome and sometimes hostile; that a bad feeling prevailed between the Mormons and Gentiles; that many depredations upon settlers and emigrants had been made by the Indians, believed to be associated with lawless whites; many emigrants had been murdered, and outside the settlements, which were few, life and property were insecure. He says that, owing to the disturbed condition and sparse settlements of the country, the holding of courts, the service of process, the arrest and keeping of prisoners, were attended with great expense, and often with great difficulty and danger; that white desperadoes infested the country, and that the marshal had to summon *posses* to assist him in the arrest and detention of parties indicted or accused of crime, and in many instances they were gone for days, armed and mounted, scouring the country in search or pursuit of parties for whose arrest warrants had been issued. He says that this occasioned an unusual outlay of money, and if it had not been furnished, the United States courts could not have been held, and the people of the Territory and emigrants to California and Oregon by the overland route would have had no protection from the law. As to the marshal's drafts, he says they were cashed, dollar for dollar, by

the merchants of Salt Lake City, there being no banks in the country, upon the assurances of himself and his brother judges that they would certainly be paid.

In relation to the judicial expedition he made to Carson Valley for the purpose of holding a court in the month of September, 1855, he says he ordered the marshal to prepare a guard with the necessary wagons, forage, food, and other requisites for the journey. In obedience to that order, the marshal obtained a guard of some thirty or forty men to protect the officers of the court on their way to and from Carson, and while holding court, and to aid in the arrest of prisoners. He says he left Salt Lake City in the spring, about May, and returned in October. The trip to and from Carson occupied five or six weeks each way, and for the remainder of the time they were engaged in organizing the county, summoning jurors, witnesses, &c., and holding the court. It was the first ever held in that country.

Of Mr. Haywood, he says that he was a careful, prudent man; that he never heard his honesty questioned, and he feels certain that he never made any money out of the office.

We have thus given the substance of Judge Stiles's affidavit. It proves that he and the marshal acted in open, bold violation of the law; he in giving the order and the marshal in obeying it. As a lawyer and a judge, he was bound to know, and did know, that the law limited the powers of the marshal to the precise services prescribed in the law quoted from. He knew, or ought to have known, that the law, in giving him a fixed salary and assigning him a district in which to hold court, required him to get there as he best might, at his own expense, and make his residence there. If he was clothed by law with any power to organize Carson County, we have not been able to find it. If the law clothed him with power or clothed the marshal with power to raise, subsist, and march a body of armed men through the country 500 miles, and detain them there for a period of two months, and then march them back to the place of starting, and all at the expense of the United States, we have not been able to put our finger upon the statute.

The committee subjoin and make a part of this report:

1. The opinion of the Attorney-General, dated August 25, 1857.
2. The letter of the Secretary of the Interior of February 24, 1858.
3. The letter of the Comptroller of April 24, 1858.
4. The letter of the Secretary of the Interior of April 27, 1858.
5. Statement of the Comptroller of the drafts and certificates of indebtedness and prescribing the conditions of settlement.
6. Acceptance of these conditions by the claimants.

The committee feel unwilling to open this long-settled account or to give any countenance whatever to the extraordinary charges of the marshal. We think those who dealt with that officer were bound to know the law, the state of his accounts with the Treasury Department, and the extent of his powers to bind the Government.

* * * * *

Notwithstanding these views of the writer of this report, the majority of the committee are in favor of the House bill, with an amendment limiting the amount which may be allowed by the accounting officers of the Treasury to the sum of \$10,000, instead of \$30,000, and the committee accordingly report the bill back with this amendment and recommend its passage.

EXHIBIT 1.

ATTORNEY-GENERAL'S OFFICE, *August 25, 1857.*

SIR: By the act of 31st August, 1852, (10 U. S. L., 99,) the President is authorized to allow payment from the judicial fund of extraordinary expenses incurred by officers of the United States, though payment of such expenses be not specifically provided for. You send me the accounts, and all papers relating thereto, of Joseph L. Haywood, late marshal of Utah, and ask my opinion whether the expenses for which he claims to be allowed come within the provisions of the act referred to.

To justify the allowance of expenses like those which the late marshal of Utah exhibits, it is necessary he should show, first, that they were incurred by a ministerial officer; secondly, that they were incurred in executing the laws of the United States; and, thirdly, that they were regularly taxed by the district or circuit court of the district in which the services charged for were rendered. If the accounts under consideration come within the requirements, they ought to be allowed; and, if not, what are the facts?

More than \$20,000* of this claim are for carrying the judges of the Territory to and from the places of holding the supreme and district courts. A numerous guard was provided, and part of the account is for the pay of the men who composed it. The hire of the horses, wagons, and other means of transportation for the guard is also charged. To this is added the price of provisions, forage, and medicine, and the expense of teams to haul them, as well as carriages for the judges themselves. The sum-total is swelled by a great many curious items, which would be hard to classify. These expenses are within the law, in so far as they are extraordinary expenses—for they are very extraordinary, both in amount and character. But they are not the expenses of a ministerial office. The expenses of a judge on the way to his court are his own expenses, and he cannot call them the expenses of a ministerial office merely because he allowed the marshal to hire his carriage and servants and pay his bills on the road. The large sum which these journeys seem to have cost makes no difference, since the law does not cover expenses of a judicial officer, however extraordinary they may happen to be. If the marshal had furnished to each of the judges a single horse and made a claim upon the Government for the use of them, he would have had a case just the same in principle as that which he has in fact presented.

The legal merits of the account are not any better because it is for twenty thousand instead of a hundred dollars. Another objection to this claim is equally fatal: the expenses were not incurred by the marshal in executing the laws of the United States. The act of Congress confines the power of the President, so that he can allow no expenses except what are incurred in the execution of judicial process. But here there was no judgment, decree, order, or process of any court to be carried into effect, nor was the marshal in the line of any duty which the law commanded him to perform. The law does tell the judges to be at the court, but it says nothing to the marshal about bringing them there. The mandate is directed to the judges alone. When a judge obeys that mandate by going to court, whether on foot or on horseback, or in a carriage surrounded by a cavalcade of outriders, it can hardly be said that he is executing the law any more than a juror when he answers to his name, or a witness when he obeys a subpoena, or a clerk when he makes up the record. Certain it is, at all events, that the judge's performance of his duty by going to court is not an execution of law by the marshal. But, even if these bills had been legal in other respects, they have not been legally taxed. The act of Congress requires a *special taxation by the court*. This was taxed, if taxed at all, by a judge at his chambers; by a judge when he was not in the Territory; by a judge after he resigned his office; by *one* judge when the court consisted of three. You cannot consider a bill properly taxed under this act until it is done in and by the proper court, duly organized, with a quorum of judges on the bench in regular session, and a record made of their decision. The exclusive evidence of this will be the certificate of the clerk, attested by the seal. Some of these expenses might be allowed if they were properly taxed, but the greater part of them are of a character which would exclude them, however they might be authenticated.

I am, most respectfully, yours, &c.,

J. S. BLACK.

Hon. J. THOMPSON,
Secretary of the Interior.

EXHIBIT 2.

DEPARTMENT OF THE INTERIOR,
Washington, February 24, 1858.

SIR: I inclose you a letter addressed to me on the 10th instant by Messrs. Suter, Lee & Co., of this city, in reference to the payment of a balance alleged to be due from the

* MEM.—The whole amount of these accounts was a trifle above \$30,000.

United States to Mr. Haywood, late marshal of Utah. They propose, if I understand them correctly, to surrender to you for cancellation the drafts and certificates of indebtedness drawn or given by the late marshal, all of which they claim to hold by regular assignment in their favor, upon being paid the amount now standing to Mr. Haywood's credit, agreeing to receive said amount in full satisfaction of said drafts and certificates of indebtedness, unless additional credits should hereafter be allowed, in which case, of course, they will claim the amount thereof, until the entire debt of Mr. Haywood is paid.

I do not understand that I have the authority to give directions in this matter, but, having been appealed to in reference to it, would say that, in my opinion, an adjustment of these claims should be effected as easily as practicable; and, if the arrangement suggested can be made without involving the Government in further liabilities, would advise its adoption. No more can, of course, be paid, nor can the Government be held liable for any more in any event than such amount as may be found due on the final settlement of the accounts of the late marshal.

I am, sir, very respectfully, your obedient servant,

J. THOMPSON, *Secretary.*

FIRST COMPTROLLER of the Treasury.

EXHIBIT 3.

TREASURY DEPARTMENT,
Comptroller's Office, April 24, 1858.

SIR: It will be seen by the decision of my predecessor, under date of October 21, 1856, in the matter of Joseph L. Haywood, esq., late marshal of the United States for the Territory of Utah, that drafts on the Secretary of the Treasury and certificates of amounts alleged to have been due to certain persons had been drawn or issued by said Haywood, and filed by the holders in your Department for payment, afterward transmitted to be filed in this office, to the amount of \$59,635.49, which then remained unpaid. That amount has subsequently been increased by the filing of additional drafts and certificates by various persons, to the sum of \$82,753.58, per schedule annexed hereto.

Per report No. 5608, on the accounts of said marshal, a balance was found due to him from the United States of \$25,358.30, of which sum it was decided that the amount of \$923.50 only should be paid over to the marshal, the remaining \$24,434.80, was to be retained in the Treasury and applied on said drafts and certificates as soon as the holders thereof should specify the items of United States court expenses, which originally made up the aggregate upon which the drafts were drawn and the certificates issued, and it should be made to appear that credit had been given to the marshal on account of any of the items going to make up such aggregate.

Eighteen months have now elapsed since this decision was made. The marshal and holders of the drafts and certificates, as far as known, were duly advised thereof, but up to this date in only two or three instances has any attempt apparently been made to show the bases upon which the drafts or certificates were founded. It has no doubt been found difficult, if not entirely impossible, to do so.

It appears that all the drafts and certificates aforesaid, comprising the aggregate of \$82,753.58, with the single exception of the first-named draft for \$1,000 in favor of H. S. Beattie, have been presented and filed by Messrs Suter, Lea & Co., of this city, either as assignees or attorneys in fact of the holders, and that they have been duly indorsed by them to the United States.

As the drafts and certificates are supposed to cover all the outstanding liabilities of the said marshal, or rather of the United States, contracted through the said marshal, and in payment or liquidation of which the said balance standing to the credit of the said marshal was directed by my predecessor to be applied, the said Suter, Lea & Co. now ask that the said sum of \$24,434.80 be paid over to them upon the said drafts and certificates, upon their executing to the United States such release as may be satisfactory in the premises.

What precise interest Messrs Suter, Lea & Co. have in these drafts and certificates is unknown to this office. It is probable that the most of them were merely placed in their hands for collection.

I do not think the holders of these drafts and certificates will ever be able to furnish the precise items of expenditure upon which they were originally founded so as to enable this office to determine which ones were allowed and which rejected, as required by the said decision of my predecessor, and therefore feel inclined to favor the application in question, provided the United States can be secured against any subsequent demand for the said balances or any other or further liability therefrom.

As this balance, as well as any other liability on the part of the Government, must be paid, if paid at all, out of the judiciary fund, which is placed by law under your

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control. I have to request such directions in the matter as you may deem proper under the circumstances.

Respectfully,

W. MEDILL, *Comptroller*.

Hon. JACOB THOMPSON,
Secretary of the Interior.

EXHIBIT 4.

DEPARTMENT OF THE INTERIOR,
Washington, April 27, 1858.

SIR: I have considered your communication of the 24th instant, respecting the payment from the judiciary fund of the sum of \$24,434.80, now standing on the books of the Treasury to the credit of Joseph L. Haywood, esq., late United States marshal for the Territory of Utah; and, in reply to your request for instructions, have to advise you that, overruling and entirely rejecting the apparent admission in your communication to the effect that a United States marshal can, upon his own motion, create a liability against the United States by making drafts upon the Government and negotiating the same, and particularly in the case of Haywood—as the drafts and certificates referred to by you were drawn not only without the authority but against the express direction of the Department, of which all, or nearly all, of the payees of the said drafts and certificates had due notice—I am not able to perceive wherein you require directions or advice even more full than are contained in my letter of the 24th of February last, addressed to you on this subject.

There appears to be only this difference between the proposition of Messrs. Suter, Lea & Co., then transmitted to you, and that now submitted by your letter, viz: That those gentlemen are unable to present a single outstanding draft of \$1,000; but I see no objection to retaining that sum subject to such arrangements as may be made with the holder of that draft, and paying the balance to Messrs. Suter, Lea & Co. upon their surrendering, duly canceled, the other drafts and certificates mentioned by you. It must, however, be expressly understood that the receipt of the money by them shall be in full satisfaction of the drafts and certificates so surrendered and canceled, and operate as a discharge of the Government from all further claim or liability whatever, on account of the same, subject only to the limitation contained in my letter, above referred to. The papers submitted with your letter are herewith returned.

I am, sir, very respectfully, your obedient servant,

J. THOMPSON, *Secretary*.

Hon. WILLIAM MEDILL,
First Comptroller of the Treasury.

EXHIBIT 5.

TREASURY DEPARTMENT,
Comptroller's Office, April 28, 1858.

The following-described drafts upon the Secretary of the Treasury and certificates of indebtedness were drawn and issued by Joseph L. Haywood, late marshal of the United States for the Territory of Utah, and presented at various times to this office for payment, viz:

Schedule.

Draft in favor of H. S. Beattie, June 22, 1855.....	\$1, 000 00
Draft in favor of Harper & Williams, October 31, 1855.....	2, 500 00
Draft in favor of Harper & Williams, October 31, 1855.....	4, 000 00
Draft in favor of Harper & Williams, October 31, 1855.....	3, 500 00
Draft in favor of Harper & Williams, February 26, 1856.....	8, 693 96
Draft in favor of Harper & Williams, February 26, 1856.....	2, 500 00
Draft in favor of Harper & Williams, February 26, 1856.....	1, 000 00
Draft in favor of Harper & Williams, February 26, 1856.....	500 00
Draft in favor of Harper & Williams, February 26, 1856.....	600 00
Draft in favor of Harper & Williams, February 26, 1856.....	676 20
Draft in favor of William T. Godlie, March 3, 1856.....	1, 330 20
Draft in favor of E. Snow & Co., March 3, 1856.....	1, 231 00
Draft in favor of E. Snow & Co., March 3, 1856.....	260 73
Draft in favor of William T. Godlie, March 3, 1856.....	5, 000 00
Draft in favor of Gilbert & Gerrish, March 12, 1856.....	5, 000 00
Draft in favor of Gilbert & Gerrish, March 12, 1856.....	4, 079 52

Draft in favor of Gilbert & Gerrish, March 12, 1856.....	\$4,000 00
Draft in favor of Gilbert & Gerrish, March 12, 1856.....	1,000 00
Draft in favor of Gilbert & Gerrish, March 12, 1856.....	749 65
Draft in favor of William Howard, February 28, 1856.....	2,249 46
Draft in favor of Livingston, Kinkead & Co., February 28, 1856.....	15,209 93
Draft in favor of Brigham Young, March 29, 1856.....	1,050 00
Draft in favor of Henry J. Jarvis, July 12, 1856.....	3,122 95
Total of drafts.....	69,253 60
Certificates in favor of Gilbert & Gerrish, April 14, 1856.....	3,391 95
Certificates in favor of Brigham Young, November 12, 1856.....	70 00
Certificates in favor of Brigham Young, April 19, 1856.....	40 00
Certificates in favor of Livingston, Kinkead & Co., April 10, 1856.....	967 40
Certificates in favor of E. Snow & Co., April 10, 1856.....	430 35
Certificates in favor of William Nixon, April 10, 1856.....	8,497 23
Certificates in favor of S. Macklean, May 6, 1856.....	103 05
Total drafts and certificates.....	82,753 58

No authority ever having been given the said marshal to draw or issue the said drafts and certificates, the Government was under no obligation whatever to accept or pay the same, and accordingly declined so to do. But upon the settlement of the accounts of the said marshal there was found due to him, as per report No. 5608, a balance of \$25,358.30, of which sum it was decided that \$24,913.30 should be applied on said drafts and certificates so soon as the holders thereof should specify the items of court expenses which made up the aggregate upon which they were drawn or issued, and it should be made to appear that credit had been given to the marshal for the same.

The holders, though notified of this decision, have failed to show the items of expenditures referred to, and the said drafts and certificates being now all in the hands and under the control of Messrs. Suter, Lea & Co., of the city of Washington, as the assignees thereof, with the single exception of the first-named draft, in favor of H. S. Beattie, for \$1,000, the exhibition of said items is no longer necessary, as the interests then in conflict, with the exception aforesaid, are now united in the same hands.

Under these circumstances, and in pursuance of the views of the Secretary of the Interior, contained in his letters to this office, of February 24 and April 27, 1858, \$1,000 of the sum standing to the credit of the said marshal, as aforesaid, will be retained for the present in the Treasury, and the balance, \$23,913.30, paid over to the said Suter, Lea & Co., upon their surrendering to the United States, duly canceled, the drafts and certificates aforesaid, agreeing to receive the same in full satisfaction thereof, and executing to the United States such release as will forever discharge them from all further claim or liability whatever on account of or by reason of the same, subject only to the limitation contained in the letter of the said Secretary, of February 24, 1858, and whatever interest they may have in the \$1,000 herein directed to be retained, should the said H. S. Beattie still fail to show the items upon which the draft in his possession was founded and drawn.

W. MEDILL, *Comptroller*.

EXHIBIT 6.

WASHINGTON, D. C., July 8, 1859.

The undersigned, having examined and carefully considered the decision of the First Comptroller of the Treasury, of April 28, 1858, in the case of the drafts drawn and certificates of indebtedness issued by Joseph L. Haywood, late United States marshal for the Territory of Utah, enumerated and described therein, have finally concluded and agreed to accept under, and abide by, the same; and upon the payment to us of \$23,913.30, the balance of amount now standing to the credit of the said Haywood upon the books of the Treasury, and subject to the distribution as per the decision of Mr. Whittlesey, of October 21, 1856, less the \$1,000 retained in the Treasury to await the action of the Department upon the claim of H. S. Beattie, to cancel and surrender up the said drafts and certificates, and to forever acquit and discharge the said United States from all claim or liability based upon, or in any way arising out of, the same, except as hereinafter mentioned. In pursuance whereof, and having received from the United States the said sum of \$23,913.30, we, the undersigned, assignees and legal holders thereof, do hereby cancel, surrender, and deliver up to the said United States the said drafts and certificates, viz:

Draft in favor of Hooper & Williams, October 31, 1855	\$2,500 00
Draft in favor of Hooper & Williams, October 31, 1855	4,000 00
Draft in favor of Hooper & Williams, October 31, 1855	3,500 00
Draft in favor of Hooper & Williams, February 26, 1856	8,693 96
Draft in favor of Hooper & Williams, February 26, 1856	2,500 00
Draft in favor of Hooper & Williams, February 26, 1856	1,000 00
Draft in favor of Hooper & Williams, February 26, 1856	500 00
Draft in favor of Hooper & Williams, February 26, 1856	600 00
Draft in favor of William Y. Godlie, March 3, 1856	676 20
Draft in favor of E. Snow & Co., March 3, 1856	1,330 20
Draft in favor of E. Snow & Co., March 3, 1856	1,231 00
Draft in favor of William Y. Godlie, March 3, 1856	260 73
Draft in favor of Gilbert & Gerrish, March 12, 1856	5,000 00
Draft in favor of Gilbert & Gerrish, March 12, 1856	5,000 00
Draft in favor of Gilbert & Gerrish, March 12, 1856	4,079 52
Draft in favor of Gilbert & Gerrish, March 12, 1856	4,000 00
Draft in favor of Gilbert & Gerrish, March 12, 1856	1,000 00
Draft in favor of Gilbert & Gerrish, March 12, 1856	749 65
Draft in favor of William Howard, February 28, 1856	2,249 46
Draft in favor of Livingston, Kinkead & Co., February 28, 1856	15,209 93
Draft in favor of Brigham Young, March 29, 1856	1,050 00
Draft in favor of Henry J. Jarvis, July 12, 1856	3,122 95
Certificate in favor of Gilbert & Gerrish, April 14, 1856	3,391 95
Certificate in favor of Brigham Young, November 12, 1856	70 00
Certificate in favor of Brigham Young, April 19, 1856	40 00
Certificate in favor of Livingston, Kinkead & Co., April 10, 1856	967 40
Certificate in favor of E. Snow & Co., April 10, 1856	430 35
Certificate in favor of William Nixon, April 10, 1856	8,497 23
Certificate in favor of S. Maclear	103 05

and forever acquit and discharge the said United States from any further payment thereon, and from all claim, liability, and demand of every kind and nature, founded upon, arising out of, or in any way connected with, the same, or the transactions which led to their issue, and for which they were given, subject only to the limitations contained in the letters of the Secretary of the Interior to the Comptroller of the Treasury, of February 24 and April 27, 1858, and the decision of the Comptroller aforesaid.

SUTER, LEA & CO.

Witness present :
JOHN BEDEL.

1917	1918	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937	1938	1939	1940	1941	1942	1943	1944	1945	1946	1947	1948	1949	1950	1951	1952	1953	1954	1955	1956	1957	1958	1959	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	2101	2102	2103	2104	2105	2106	2107	2108	2109	2110	2111	2112	2113	2114	2115	2116	2117	2118	2119	2120	2121	2122	2123	2124	2125	2126	2127	2128	2129	2130	2131	2132	2133	2134	2135	2136	2137	2138	2139	2140	2141	2142	2143	2144	2145	2146	2147	2148	2149	2150	2151	2152	2153	2154	2155	2156	2157	2158	2159	2160	2161	2162	2163	2164	2165	2166	2167	2168	2169	2170	2171	2172	2173	2174	2175	2176	2177	2178	2179	2180	2181	2182	2183	2184	2185	2186	2187	2188	2189	2190	2191	2192	2193	2194	2195	2196	2197	2198	2199	2200	2201	2202	2203	2204	2205	2206	2207	2208	2209	2210	2211	2212	2213	2214	2215	2216	2217	2218	2219	2220	2221	2222	2223	2224	2225	2226	2227	2228	2229	2230	2231	2232	2233	2234	2235	2236	2237	2238	2239	2240	2241	2242	2243	2244	2245	2246	2247	2248	2249	2250	2251	2252	2253	2254	2255	2256	2257	2258	2259	2260	2261	2262	2263	2264	2265	2266	2267	2268	2269	2270	2271	2272	2273	2274	2275	2276	2277	2278	2279	2280	2281	2282	2283	2284	2285	2286	2287	2288	2289	2290	2291	2292	2293	2294	2295	2296	2297	2298	2299	2300	2301	2302	2303	2304	2305	2306	2307	2308	2309	2310	2311	2312	2313	2314	2315	2316	2317	2318	2319	2320	2321	2322	2323	2324	2325	2326	2327	2328	2329	2330	2331	2332	2333	2334	2335	2336	2337	2338	2339	2340	2341	2342	2343	2344	2345	2346	2347	2348	2349	2350	2351	2352	2353	2354	2355	2356	2357	2358	2359	2360	2361	2362	2363	2364	2365	2366	2367	2368	2369	2370	2371	2372	2373	2374	2375	2376	2377	2378	2379	2380	2381	2382	2383	2384	2385	2386	2387	2388	2389	2390	2391	2392	2393	2394	2395	2396	2397	2398	2399	2400	2401	2402	2403	2404	2405	2406	2407	2408	2409	2410	2411	2412	2413	2414	2415	2416	2417	2418	2419	2420	2421	2422	2423	2424	2425	2426	2427	2428	2429	2430	2431	2432	2433	2434	2435	2436	2437	2438	2439	2440	2441	2442	2443	2444	2445	2446	2447	2448	2449	2450	2451	2452	2453	2454	2455	2456	2457	2458	2459	2460	2461	2462	2463	2464	2465	2466	2467	2468	2469	2470	2471	2472	2473	2474	2475	2476	2477	2478	2479	2480	2481	2482	2483	2484	2485	2486	2487	2488	2489	2490	2491	2492	2493	2494	2495	2496	2497	2498	2499	2500	2501	2502	2503	2504	2505	2506	2507	2508	2509	2510	2511	2512	2513	2514	2515	2516	2517	2518	2519	2520	2521	2522	2523	2524	2525	2526	2527	2528	2529	2530	2531	2532	2533	2534	2535	2536	2537	2538	2539	2540	2541	2542	2543	2544	2545	2546	2547	2548	2549	2550	2551	2552	2553	2554	2555	2556	2557	2558	2559	2560	2561	2562	2563	2564	2565	2566	2567	2568	2569	2570	2571	2572	2573	2574	2575	2576	2577	2578	2579	2580	2581	2582	2583	2584	2585	2586	2587	2588	2589	2590	2591	2592	2593	2594	2595	2596	2597	2598	2599	2600	2601	2602	2603	2604	2605	2606	2607	2608	2609	2610	2611	2612	2613	2614	2615	2616	2617	2618	2619	2620	2621	2622	2623	2624	2625	2626	2627	2628	2629	2630	2631	2632	2633	2634	2635	2636	2637	2638	2639	2640	2641	2642	2643	2644	2645	2646	2647	2648	2649	2650	2651	2652	2653	2654	2655	2656	2657	2658	2659	2660	2661	2662	2663	2664	2665	2666	2667	2668	2669	2670	2671	2672	2673	2674	2675	2676	2677	2678	2679	2680	2681	2682	2683	2684	2685	2686	2687	2688	2689	2690	2691	2692	2693	2694	2695	2696	2697	2698	2699	2700	2701	2702	2703	2704	2705	2706	2707	2708	2709	2710	2711	2712	2713	2714	2715	2716	2717	2718	2719	2720	2721	2722	2723	2724	2725	2726	2727	2728	2729	2730	2731	2732	2733	2734	2735	2736	2737	2738	2739	2740	2741	2742	2743	2744	2745	2746	2747	2748	2749	2750	2751	2752	2753	2754	2755	2756	2757	2758	2759	2760	2761	2762	2763	2764	2765	2766	2767	2768	2769	2770	2771	2772	2773	2774	2775	2776	2777	2778	2779	2780	2781	2782	2783	2784	2785	2786	2787	2788	2789	2790	2791	2792	2793	2794	2795	2796	2797	2798	2799	2800	2801	2802	2803	2804	2805	2806	2807	2808	2809	2810	2811	2812	2813	2814	2815	2816	2817	2818	2819	2820	2821	2822	2823	2824	2825	2826	2827	2828	2829	2830	2831	2832	2833	2834	2835	2836	2837	2838	2839	2840	2841	2842	2843	2844	2845	2846	2847	2848	2849	2850	2851	2852	2853	2854	2855	2856	2857	2858	2859	2860	2861	2862	2863	2864	2865	2866	2867	2868	2869	2870	2871	2872	2873	2874	2875	2876	2877	2878	2879	2880	2881	2882	2883	2884	2885	2886	2887	2888	2889	2890	2891	2892	2893	2894	2895	2896	2897	2898	2899	2900	2901	2902	2903	2904	2905	2906	2907	2908	2909	2910	2911	2912	2913	2914	2915	2916	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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1873.—Ordered to be printed.

Mr. SCOTT, from the Committee on Claims, submitted the following

R E P O R T :

The Committee on Claims, to whom was referred the petition of Samuel Gardiner, praying for the payment of a balance which he claims to be due him from the Government of the United States, said balance being for compensation for personal services in putting up gas-lighting apparatus in new dome of the Capitol, submit the following report :

At the solicitation of the committee Edward Clark, esq., the architect of the Capitol, furnished them with a written statement of the reasons why the proper disbursing officer refused to pay Mr. Gardiner the amount (\$3,890) which he now claims as a balance due him. Mr. Clark's statement is plain and to the point, and is appended as a part of this report. In view of the facts stated by him, your committee are of the opinion that Mr. Gardiner has no claim, in law or equity, against the Government of the United States, and, therefore, report adversely on the petition submitted to them.

ARCHITECT'S OFFICE, UNITED STATES CAPITOL,
Washington, D. C., January 11, 1873.

SIR: In reply to yours of the 9th instant, requesting to know, on behalf of the Committee on Claims, the reasons for not allowing Mr. Samuel Gardiner for the per diem he charges in the claim now before your committee for services in putting in the electric lighting apparatus at the new dome, I have the honor to state that Mr. Gardiner was employed by Mr. B. B. French, while commissioner of public buildings, &c., to place in the dome the electric lighting apparatus at prices submitted in a schedule furnished by Mr. Gardiner. In the schedule above referred to, it was provided that in addition to the specific prices for the various portions of the apparatus, that 25 per cent. on the cost of putting it into place should be paid. The 25 per cent. thus provided for I regarded, as did the Secretary of the Interior, to be in payment of any services that Mr. Gardiner might render in putting the apparatus in place, and in lieu of any per diem; and further, that as he was to furnish the component parts of this apparatus at specific prices, he would have no right to charge for time employed in supervising their making, even if a per diem were provided for in his proposal, instead of the 25 per cent., and in one case the 33½ per cent., profit.

I am, very respectfully, your obedient servant,

EDWARD CLARK,
Architect.

Hon. JOHN SCOTT,
United States Senate.

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1873.—Ordered to be printed.

Mr. MORTON, from the Committee on Privileges and Elections, submitted the following

REPORT:

On the 7th of January, 1873, the Senate adopted the following resolution:

Resolved, That the Committee on Privileges and Elections is directed to inquire and report to the Senate whether the recent election of electors for President and Vice-President has been conducted, in the States of Louisiana and Arkansas, in accordance with the Constitution and laws of the United States, and the laws of said States, and what contests, if any, have arisen as to who were elected as electors in either of said States, and what measures are necessary to provide for the determination of such contests, and to guard against and determine like contests in the future election of electors for President and Vice-President.

That for the purpose of speedily executing this resolution, the said committee shall have power to send for persons and papers, to take testimony, and, at their discretion, to send a sub-committee of their own number to either of said States, with authority to take testimony; and, if the exigency of this service demands, the said committee may appoint and employ suitable, disinterested, and unprejudiced persons, not resident in either of such States, with authority to take such testimony as may be material in determining any pending contest growing out of the election of electors in either of said States."

In obedience to the instruction contained in the foregoing resolution, the Committee on Privileges and Elections have had under consideration so much of the resolution as relates to the election of electors in the State of Louisiana, and beg leave to submit the following preliminary report

The act of the legislature of Louisiana, of March, 1870, for the regulation of elections in that State, provides, among other things, that the governor shall have the power to appoint officers known as supervisors of registration in each parish in the State, and that these supervisors of registration shall have authority to appoint commissioners of election (who in other States are called inspectors and judges,) under whose direction and authority the voting shall actually take place; that the supervisors of registration shall also control and direct the registration of the voters in each parish, fixing the places for registering and the places for voting; that, after the election has taken place, the commissioners of election shall bring the boxes containing the votes to a certain point in the parish, where, under the supervision and direction of the supervisor of registration, the votes shall be counted; and, when

that is accomplished, the supervisor of registration shall make out a statement of the result of the election at the various voting-places in the parish, of which triplicate copies shall be made, and also triplicate copies of the tally-sheets, and a statement of the vote at each poll in the parish, to be signed by the commissioner of election; and that the supervisor of registration shall seal up one copy of all these papers, and inclose it to the governor of the State by mail; then seal up another copy, and send it to the governor by the next most speedy mode of conveyance; and shall himself retain the third copy. The law then provides that the governor, lieutenant-governor, secretary of state, and John Lynch, and T. C. Anderson, by name, shall constitute the returning or canvassing board; that the governor of the State shall, within ten days after the election, open the sealed packages from the various parishes, sent to him by the supervisors of registration, in the presence of the other members of the board, and the vote shall then be counted by the board for presidential electors, State officers, and members of the legislature, and the result ascertained; that one copy of the result or finding of the board shall be filed in the office of the secretary of state, and another shall be published in the official journal of the State.

Governor Warmoth, Lieutenant-Governor Pinchback, and F. J. Herron, acting secretary of state, were members of this returning-board, *ex-officio*; and a majority of the members convened, within ten days, in the city of New Orleans, to enter upon the duty of counting the votes. Pinchback and Anderson, having been candidates for Congress, were, by another provision of the law, made ineligible, and were declared, by resolution, to be no longer members of the board, and a controversy arose in regard to filling their places. It is not necessary to enter into the details of this controversy further than to state that Governor Warmoth attempted to control the vacancies thus created on this board, by removing F. J. Herron, acting secretary of state, and placing in his stead Jack Wharton; and after he had done so, claimed that he and Wharton, by their votes, had elected F. H. Hatch and Durant Da Ponte to fill the vacancies of Pinchback and Anderson; while, on the other hand, it was claimed that Lynch, and Herron, while yet acting secretary of state, had elected James Longstreet and Jacob Hawkins to fill these vacancies.

In a proceeding commenced in the circuit court of the United States for the district of Louisiana, on the 15th of November, Judge Durell granted a preliminary injunction restraining the Wharton board from opening the official returns and counting the votes, from acting as a returning-board, making any returns, or proclamation of any finding, until further order of the court, which continued in force until the decision of the case on the 6th of December.

The election for presidential electors, members of Congress, State officers, and members of the legislature, was held in Louisiana on the 4th of December, and the returns of the election in the various parishes were sent to the governor by the supervisors of registration, as required by law. The governor refused to act with the board, known as the "Lynch board," or to open and lay before that board the returns of the election from the various parishes; but opened them and prepared to make the count before what is known as the "Wharton board," which was then enjoined from further proceedings by Judge Durell. The official returns, which had been sent to the governor, were by him withheld from the Lynch returning board, and never at any time came into the possession or under the examination of that board. The legislature of Louisiana, at its session in the winter of 1872, passed an act ^{offering} ~~offering~~ the returning or canvassing board, as created by

the act of 1870, and authorizing the State senate to elect a returning-board to have the same powers as the former, and making other changes in the mode of conducting the elections; and, on the 20th of November, 1872, the governor, who had not signed this act, but kept it in his possession during the pendency of these proceedings in the circuit court of the United States, and also proceedings of a like character commenced in the eighth district court of the State, signed the bill and published it as a law.

On the 21st day of November, 1872, Governor Warmoth, assuming that the Lynch board had been abolished by the act which he had signed on the 20th of November, and claiming the authority to appoint a returning-board under the clause of the constitution which gave him power to fill vacancies, proceeded to appoint De Feriet and others as a returning-board, and placed in their hands the official returns of the election, to be by them counted to ascertain and declare who were elected State officers and members of the legislature. Before the official returns were thus placed in the hands of that board, they had been opened by the governor, and examined by a deputy secretary of state, named Woodward, acting under Jack Wharton, who at that time assumed to be secretary of state under the appointment by Governor Warmoth when he removed F. J. Herron, as before stated, and by O. A. Bragdon, the governor's private secretary, who had been elected assistant secretary of the Wharton board. Messrs. Woodward and Bragdon, according to the testimony, looked over the returns to ascertain who had been elected electors for President and Vice-President, and made a statement to the governor of the result of their examination; and the governor, on the morning of the 4th of December, the day fixed by the act of Congress when the electors in the several States shall meet and cast their votes, issued a paper in which he declared that T. C. Manning, G. A. Weed, A. F. Herron, H. J. Campbell, L. Bush, A. Thomas, A. H. Leonard, and L. V. Reeves had been elected electors, and placed a copy of the said paper in the possession of each of said persons; and, afterward, on the same day, they assembled in the city of New Orleans, and, as electors, voted for President and Vice-President. It clearly appears from the testimony that the official returns of the State were never examined and counted for presidential electors by any persons except Messrs. Woodward and Bragdon, and up to this time never have been examined and counted by the Lynch board or any person having any authority whatever to make such an examination and count. While we have no doubt that the returns sent to Governor Warmoth from various parishes by the supervisors of registration will, upon their face, show that the aforesaid persons named as electors, and whom we shall designate as the "Greeley electors," received a majority of the votes, that fact has never been ascertained by any competent authority and the action of Governor Warmoth depended entirely upon the unauthorized statements of Messrs. Woodward and Bragdon, who, at the time, had no right to look into the returns at all. In this matter, there is no pretense that the law was complied with, and the Lynch board were never at any time permitted to see them.

The third section of the act of Congress of 1792 declares what shall be the official evidence of the election of electors, and provides that "the executive authority of each State shall cause three lists of the names of the electors of such State to be made and certified, to be delivered to the electors on or before the first Wednesday in December, and the said electors shall annex one of the said lists to each of the lists of their votes." The certificate of the secretary of state is not required,

and the certificate of the governor, as provided for in this section, seems to be the only evidence contemplated by the law of the election of electors and their right to cast the electoral vote of the State. If Congress chooses to go behind the governor's certificate, and inquire who had been chosen as electors, it is not violating any principle of the right of the States to prescribe what shall be the evidence of the election of electors, but it is simply going behind the evidence as prescribed by an act of Congress; and, thus going behind the certificate of the governor, we find that the official returns of the election of electors, from the various parishes of Louisiana, had never been counted by anybody having authority to count them.

Some two or three days preceding the 4th of December, the Lynch board officially declared that M. F. Bonzano, J. Lanabere, C. H. Halstead, L. C. Croudanez, A. R. Johnson, Milton Morris, J. Taylor, and John Ray, whom we shall designate as the "Grant electors," had received a majority of all the votes in the State for electors of President and Vice-President, and the secretary of state *de jure*, Mr. Bovee, not then in possession of the office of secretary of state or the State seal, but who had been decided by the supreme court of the State a few days before to be the lawful secretary, made a certificate of election to the persons so declared chosen as electors, and on the 4th of December they met and cast their votes for President and Vice-President according to the requirements of the act of Congress. They did not, on that day, however, seal up their vote, but kept it open for several days until Mr. Bovee, the secretary of state, got possession of the State seal so as to attach it to their certificates of election. The secretary of state had no right, under the law, to make any certificate upon the subject, unless for the information of the governor, and his certificate constitutes no legal evidence of the election of the persons therein named. The Lynch board, in making the count and declaration as to the election of electors, did so without having before them any of the official returns of the election as made out by the officers of the election, under the laws of the State, and had no legal evidence before them at all upon which they could count the votes, but their count was made upon documents, affidavits, and statements, *ex parte* in their character, having no legal validity, and which could not, in the nature of things, form the basis of an accurate and reliable declaration of the result of the election.

On the 15th day of November, after the Lynch board had been organized by the election of Longstreet and Hawkins to fill the vacancies of Pinchback and Anderson, Longstreet, on behalf of said board, and designating himself as "deputy supervisor," demanded of Governor Warmoth that he should bring the official returns of the election before said board to be counted. This demand Governor Warmoth declined to comply with, in the following letter:

"STATE OF LOUISIANA, EXECUTIVE DEPARTMENT,
"New Orleans, November 15, 1872.

"SIR: In reply to your letter, just received, informing me that you have instructions to see that all election statements of the election of November 4th in this State are properly and promptly placed in the possession of said board, and asking that I place the same in the possession of Special Deputy Marshal W. F. Loan, in order that he may deliver the same to Mr. John Lynch, president of the board, I have to say that I do not recognize your authority as deputy supervisor to make such demand, nor have I any knowledge of the existence of any such body as that presided over by Mr. John Lynch. The election returns

received by me as president of the State board of canvassers are, and will remain, in the possession of myself as president of the State board of canvassers, in accordance with the law of the State, and I alone am authorized to hold and open them.

“Very respectfully, your obedient servant,

“H. C. WARMOTH,

“*Governor of Louisiana.*

“General JAMES LONGSTREET,

“*Deputy United States Supervisor.*”

It is claimed on behalf of this board, that, by the demand upon Governor Warmoth that he should produce before them the official returns of the elections, and his refusal to do so, a foundation was laid for the introduction of secondary evidence to prove the contents and character of said official returns, upon which secondary evidence the count might be made. Without entering into the discussion of the legal question whether a sufficient foundation had thus been laid for the introduction of secondary evidence as to the character of the returns, it is sufficient to say that if such foundation had been laid it could only justify the introduction of secondary evidence to prove the actual character and contents of the returns, and the testimony before the committee shows that the evidence which the Lynch returning-board had before them went to contradict the face of the returns, to show fraud, and what the vote should have been, and that, in making their count, the board did not rely so much upon evidence as to what the official returns showed, but upon evidence which, in many cases, contradicted and denied their correctness. Among other evidences, the Lynch board counted some five thousand affidavits as votes for presidential electors, State officers, and members of the legislature. These affidavits purported to have been made by persons, mostly persons of color, who had been denied the right of registration, and whose votes had been refused at the polls. In many of them it was stated that these rights had been denied them because of race, color, or previous condition of servitude, and many of them contained no such statements. It is urged that these affidavits might be counted as votes under the provisions of the act of Congress of 1870, to enforce the fifteenth amendment to the Constitution. A brief examination of that act will show that this claim is unfounded. By the third section of that act it is provided that, where a person has offered to register or to perform any act required by law preliminary to voting, from the performance of which he has been wrongfully hindered by any officer or person in authority, the offer to register or to perform the preliminary act shall be taken as a performance, and, upon proof thereof, such person shall have a right to vote just as if such preliminary act had been performed. But there is no provision in the law that if any person has been refused the right to vote and has performed such preliminary act, or offered to perform the same, as provided in the third section, his offer to vote shall be taken and counted as a vote. In the twenty-third section of the act it is provided that if any person has been defeated in obtaining an office by reason of such denial to any person or persons of the right to vote on account of race, color, or previous condition of servitude, such person may bring a suit in the courts of the United States to recover the office; but the section expressly provides that its benefits shall not extend to candidates for the State legislature, for Congress, or for electors for President and Vice-President. The section clearly contemplates a suit in court, to which the person who, it is claimed, has been

fraudulently elected, shall be made a party, and that upon legal proof that the plaintiff has been deprived of his election by the exclusion of persons from voting on account of race, color, or previous condition of servitude, he shall be entitled to recover the office.

The statute of Louisiana authorizes the supervisors of registration in the parishes, or the commissioners of election, to make affidavit in regard to any violence, tumult, fraud, or bribery by which a fair election has been prevented, which shall be forwarded to the returning-board, along with the returns, and upon which the returning-board may reject the vote of a poll in making the count; and if the evidence of the officers of the election is not sufficient to satisfy the minds of the returning-board in regard to the matters charged, they are authorized to send for persons and papers and take further testimony upon the matter; but they have no authority to make such investigation unless the foundation is first laid by the sworn statements of the officers of the election, as before mentioned. The Lynch board, in making their count without having the sworn statements of the officers of the election to give them jurisdiction to investigate, received affidavits, the statements of supervisors of election appointed under the act of Congress, letters and verbal statements upon which they assumed the authority, in some cases, to reject the entire vote of parishes, and in many instances to throw out the vote of particular polls and wards, and in others to estimate and fix the vote at about what they supposed it ought to be from their knowledge of the political status of the parish or locality. The evidence submitted to the board, and which has been described to the committee, undoubtedly produced the conviction in their minds that the election had been an organized fraud. Governor Warmoth, under the act of 1870, had the whole machinery of the election in his own hands. He had the appointment of the supervisors of registration in the different parishes, and they the appointment of commissioners of election, and those officers, with but few exceptions, were appointed from the ranks of those who were opposed to the republican party, and we think, from the informal evidence before the returning-board and from what this committee has learned in the course of this investigation, there is little doubt that those advantages were used to the utmost, and every means resorted to in order to secure the triumph of the party with which Governor Warmoth was acting. Great difficulties were thrown in the way of registration; republicans in many parishes were put to great inconvenience to find the registrar, and in many instances were unable to do so; places of registering and of voting in many parishes were fixed at points remote from the centers of population, often without notice of the place being given; false registration-papers, double-voting, stuffing ballot-boxes, and other frauds and irregularities, were charged in a majority of the parishes, and there is not much room to doubt that the Lynch returning-board were of the opinion that, upon a fair election, the republican party would have carried the State and had been cheated and hindered in every way possible by the power that controlled the machinery of the election. But, notwithstanding all this, the Lynch returning-board, with the sort of evidence which was before them, had no power under the law of the State to investigate these charges of fraud and injury, or to act upon their convictions of wrongs that had been suffered.

The election of the Greeley electors was certified to by the governor of the State, but the official returns of the election have not been counted by the returning-board created by the laws of Louisiana for that purpose; and the persons who, in fact, made the examination and count,

had no legal authority to do so. The election of the Grant electors is certified by the Lynch returning-board, but that board did not have the official returns before them, and their election is not certified by the governor of the State as required by the act of Congress. The committee are of the opinion that neither the Senate of the United States, nor both Houses jointly, have the power under the Constitution to canvass the returns of an election and count the votes to determine who have been elected Presidential electors, but that the mode and manner of choosing electors are left exclusively to the States. And if by the law of the State they are to be elected by the people, the method of counting the vote and ascertaining the result can only be regulated by the law of the State. Whether it is competent for the two houses, under the twenty-second joint rule, (in regard to the constitutionality of which the committee here give no opinion,) to go behind the certificate of the governor of the State, to inquire whether the votes for electors have ever been counted by the legal returning-board created by the law of the State, or whether, in making such count, the board had before them the official returns, the committee offer no suggestions, but present only a statement of the facts as they understand them.

As to the other questions upon which the committee are instructed to report, touching the existence of a legal State government in Louisiana, and the admission of a Senator from that State, they are not now prepared to report.

ADDENDUM BY MR. MORTON.

A majority of the committee were of opinion that no reference should be made in the report to the decision of the supreme court of Louisiana as to which was the legal returning-board, upon the ground that the decision was made subsequent to the fourth of December, when the electors were to cast their votes for President and Vice-President; but it seems to me that the history of the whole matter would not be complete and the Senate would not be placed in possession of all the material facts, without a statement of the character of that decision, and that the fact that it was made after the casting of the vote by the electors would furnish no sufficient reason why it should not be referred to in the report. Decisions of courts of last resort are made at the end of causes and not at the beginning, and are held to relate back and establish the rights of the parties throughout the whole controversy.

On the 14th day of November, 1872, a proceeding was commenced in the eighth district court of Louisiana by the attorney-general, on the information of the returning-officers of elections, to enjoin what was called the Wharton board from canvassing the official returns and making any finding thereon, and requiring the returns to be placed in the hands of the Lynch board. And to this suit Governor Warmoth, Hatch, Da Ponte, and Wharton were made parties. This case was appealed to the supreme court of the State, and by that court decided on the — day of January, 1873. The court held that the board consisting of Lynch, Longstreet, and Hawkins, together with Governor Warmoth and Mr. Bovee, who was the secretary of state who had been suspended by Governor Warmoth when he first appointed Herron, and who had been restored by a decision of the supreme court, constituted the legal returning-board, and that Da Ponte, Wharton, and Hatch had no authority whatever.

O. P. MORTON.

ADDENDUM BY MR. TRUMBULL.

My understanding of the evidence is, that Governor Warmoth some months before the election had removed Bovee from the office of secretary of state, and appointed Herron in his place; that on the morning of November 14 he removed Herron as a defaulter, and in his place appointed Wharton, who qualified and took possession of the office of secretary of state prior to noon, the hour to which the returning-board stood adjourned from a preliminary meeting held the day previous; that after the meeting of the board on the 14th, and the vacancies in it had been filled by Warmoth and Wharton, by the appointment of Hatch and Da Ponte, Bragdon was appointed assistant secretary of the board. Governor Warmoth opened the official returns in their presence, and the assistant secretary commenced their tabulation, but before completing it the Wharton board was enjoined from further proceeding by the United States district judge, Durell.

Bragdon, who was private secretary of the governor, as well as assistant secretary of the Wharton board, and in whose possession the returns remained, assisted by Woodward, who was then assistant secretary of state under Wharton, as he had previously been under Herron, continued the tabulation of the returns for electors till it was completed, when Governor Warmoth gave a statement of the result to the electors who were elected according to the official returns.

I also dissent from the following passages in the foregoing report, to wit:

"The evidence submitted to the [Lynch] board, and which has been described to the committee, undoubtedly produced the conviction in their minds that the election had been an organized fraud." "There is not much room to doubt that the Lynch returning-board were of the opinion that, upon a fair election, the republican party would have carried the State, and had been cheated and hindered in every way possible by the power that controlled the machinery of the election."

The fact that the Lynch board undertook to count in the republican candidates as elected without the semblance of an official return before them, and in some instances upon spurious, forged, and false affidavits, as the evidence before the committee shows, affords no evidence to my mind that they supposed a fair election had not been held.

LYMAN TRUMBULL.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1873.—Ordered to be printed.

REPORT

Of the Committee of Claims of the House of Representatives.

[To accompany bill H. R. 3859.]

The committee to whom was referred the petition of William Selden, late, United States marshal of the District of Columbia, asking an additional allowance at the hands of Congress for his maintenance and support of public prisoners confined in the jail of said District, respectfully submit the following report :

The petitioner's account, duly certified and allowed by the judge of the criminal court of the District of Columbia, was rendered at the rate of thirty-four cents per diem for the maintenance and support of each public prisoner confined in the District jail between the 30th day of July, 1858, and the 17th day of May, 1861, making an aggregate sum of \$29,342.56. Upon this account he was allowed and paid by the accounting-officers at the Treasury at the rate of twenty-one cents per diem, making an aggregate of \$18,122.46. The petitioner claims the difference between these amounts, which is the sum of \$11,220.10.

By act of Congress 24th September, 1789, section 27, (1 Stat., 87,) a marshal was authorized in and for each judicial district of the United States. By act of Congress May 8, 1792, section 4, (1 *Id.*, 227,) the marshal was authorized to include in his account his expenses "for the maintenance of prisoners confined in jail for any criminal offense;" and it was further provided that the account, "having been examined and certified by the court or one of the judges" thereof in which the service had been rendered, should be "passed in the usual manner, and the amount thereof paid out of the Treasury of the United States to the marshal."

With entire unanimity, the legislative, executive, and judicial departments of the Government have united in the opinion that by the true construction of the last above-mentioned enactment "*the certificate of the judge, upon the examination of the marshal's accounts, was conclusive, and that the items therein were not to be examined in any manner by the officers of the Treasury Department.*"—(1 Opin., 443; 5 *Id.*, 191; Sen. Doc., 1st sess. 29th Cong., 393; Rep. H. R., 2d sess. 30th Cong., 132; U. S. *vs.* Smith, 1 Woodson, 184.)

By act of Congress 27th February, 1801, sections 7 and 9, (2 Stat., 106,) the marshal of the District of Columbia was placed, both in

respect to his duties and compensation, on the same footing with the marshal of the United States for the judicial district of Maryland.

Your committee are aware that the operation of the fourth section of the act of Congress of May 8, 1792, was modified, to some extent, by the first section of the act of Congress of August 16, 1856, (11 Stat., 49;) but that such modification had no application to the District of Columbia is incontestably demonstrated, in their opinion, as well by the peculiar phraseology of such first section and its evident contrast with the language employed in the eighth section of the act of 1856, as by the fidelity with which the legislature seem to have adhered to the scope of the first section of the act of Congress of 26th February, 1853, (10 Stat., 161,) as amended by act of Congress of March 2, 1855, (*Id.*, 671,) after their attention had been specially and directly called to the subject.

Your committee are constrained, therefore, to the conclusion that the account presented by the petitioner to the accounting-officers of the Treasury was not re-examinable by them upon its merits.

Your committee deem it proper to further report that the sum of thirty-four cents per diem for the maintenance and support of each public prisoner, as claimed by the petitioner, was in itself but a fair and reasonable compensation; that, without any known exception, his predecessors in office, from the year 1816, had at that rate been allowed and paid at the Treasury; and that, without any change in the law whatever, the immediate successor in office of Mr. Selden was allowed and paid for the same description of service, at the rate of *thirty-six* cents per diem—the case of the petitioner furnishing the solitary example, in a period of forty years, of a final settlement of the accounts of the marshal of the District of Columbia on the basis of any less allowance than thirty-four cents a day for the maintenance and support of a public prisoner confined in jail.

It may be added that, since 1861, the custody of public prisoners in the District of Columbia has ceased to belong to the marshal, and, under existing laws, can furnish no ground for future claim against the Government.

Upon a full and careful examination of the subject, your committee are unanimously of the opinion that the claim of the petitioner is valid and obligatory upon the Government, and that it should be fully discharged.

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 11, 1873.—Ordered to be printed.

Mr. ANTHONY submitted the following

REPORT:

[To accompany joint resolution S. R. 13.]

The Joint Committee on Public Printing, to whom was referred the reporting and publication of the debates in Congress, by the third section of the act approved April 2, 1872, report:

That the joint committee complied with the requisitions of the act of Congress, in publishing an advertisement once a week, for four successive weeks, in the principal cities of the Union, "inviting proposals in detail for reporting and for printing, together and separately, the debates of the Forty-third, Forty-fourth, and Forty-fifth Congresses, together or separately." To secure an uniformity in the manner of submitting these proposals which would enable Congress to compare them, the following blank form was supplied to all applicants, and it was stipulated that each proposal should be accompanied by a bond, with security in the penalty of \$10,000, that if the proposal should be accepted by Congress, the bidder or bidders should execute a contract within the next thirty days after said acceptance.

[FORM OF BLANK FOR PROPOSAL.]

PROPOSALS FOR REPORTING AND PUBLISHING THE PROCEEDINGS AND DEBATES OF CONGRESS.

To the Joint Committee on Public Printing of the Forty-second Congress, second session:

The undersigned, ———, of ———, in ———, hereby propose to report, or to publish, or to report and publish, the proceedings and debates of the Forty-third, the Forty-fourth, and the Forty-fifth Congresses, or of the Forty-third Congress only, as hereinafter designated, to wit:

PROPOSAL A.—*Reporting the proceedings and debates.*

To report promptly, by a corps of competent reporters, sufficient for that purpose, the proceedings and debates of each House, during the sessions of the ———, the ———, and the ——— Congress—, at ——— for each and every one thousand solid ems, printer's measurement, of whatever size of type may be used, which may be actually reported, and at ——— for each and every one thousand solid ems, printer's measurement, of whatever size of type may be used, which may be supplied either in print or in manuscript to the reporters; and these sums will cover all charges of every kind for and in connection with such reporting, and be submitted with the distinct under

standing that no additional compensation is to be expected or granted by either House: *Provided*, That the reporters so employed for the Senate shall be such persons only as shall be approved in writing by the Joint Committee on Public Printing on the part of the Senate, and the reporters so employed for the House shall be approved in writing by the Joint Committee on Public Printing on the part of the House, under the penalty of a forfeiture of the contract.

PROPOSAL B.—*Publication of the proceedings and debates.*

[Bidders will state here whether they offer proposals for the Forty-third Congress, or for the Forty-third, Forty-fourth, and Forty-fifth Congresses.]

1. To publish in a daily folio sheet, which shall contain no political matter, and which shall be issued in time to be sent, and shall be sent, by the earliest mails sent from the Washington City post-office on the morning of its publication, the proceedings and debates of the preceding day, in solid brevier type, printed extracts to be set in nonpareil, when they shall not exceed forty columns, and when they shall exceed forty columns, then the excess may be deferred until the contractor, using all due diligence, shall find its publication practicable, at ——— for each and every one thousand solid ems, printer's measurement, which is to include the entire cost of composition, proof-reading, correction, and making-up, of every size of type used, and without any extra charges, whether for tabular work, corrections, alterations, additions in the proofs, waiting for copy, messengers, or for any other work or service connected with the putting in type, correcting, and preparing for the press, the said daily sheet.

2. To print five hundred copies of the said daily sheet, and to furnish paper for the same, paper weighing not less than forty-five pounds per ream, of as good a quality as the paper of Class 1, used at the Government Printing Office, and without any extra charge for mailing, or for any other work or service, at ——— for the five hundred copies.

3. To print such additional copies of the said daily sheet, on the same quality of paper, and without any extra charge, at ——— for each and every copy ordered by Congress, without any extra charge for mailing, or for any other work or service.

4. To transpose the reports of proceedings and debates so printed in the said daily sheet into quarto form, without any extra charge for any corrections, alterations, or additions, which may be necessary, and to prepare the same for the press, at ——— for each and every one thousand ems, printer's measurement.

5. To print one thousand copies of the said quarto sheet, and to furnish paper for the same, paper weighing not less than forty-five pounds per ream, of as good a quality as the paper of Class 1, used at the Government Printing Office, and to dry-press the same, without any extra charge for any other work or service, in connection with the same, at ——— for the one thousand copies: *Provided*, That the contractor shall furnish storage, free of charge, for the printed sheets, for such reasonable time as the Congressional Printer may desire, he giving duplicate receipts therefor at such times as the contractor may require.

6. To print such additional copies of the said quarto sheet on the same quality of paper, and without any extra charge, at ——— for each and every one hundred copies ordered by Congress.

7. To publish the laws passed by Congress in the same manner as the proceedings and debates, at ——— for each and every one thousand ems, printer's measurement, which is to cover the whole cost of composition, correction, and making-up, without any extra charges whatever.

8. To publish a "History of Bills and Resolutions," at ——— for each and every one thousand ems, printer's measurement, which is to include the entire cost of compiling the same and preparing it for the press in quarto form.

9. To publish indexes of the proceedings and debates and of the laws, to be inserted once only in the publications for each session of Congress, at ——— for each and every one thousand ems, printer's measurement, which is to include the entire cost of compiling the same, putting them in type, and preparing them for the press in quarto form.

10. Persons making proposals must here state whether they propose to make any additional charges for any service connected with the reporting and the publication of the proceedings and debates in Congress; and if they do, to state what those charges will be for, and their amount, with the understanding that no claim will be made for remuneration or extra compensation in any shape beyond what is embraced in these proposals ———.

In witness whereof, the undersigned hereto subscribe — name —, at —, in —, this — day of —, 1872.

NOTE.—The Joint Committee on Public Printing will exercise a supervision of the work, and five per centum of the sums due for its execution will be withheld during each session of Congress until the entire work for that session shall be executed to their satisfaction. Each proposal must be accompanied by satisfactory evidence that the person or persons making it can command the necessary facilities, and are practically acquainted with the business of publication.

There were fourteen applicants for these blank forms, but when the committee met, on the 18th of May, to open such sealed proposals as had been received, there were but three propositions before them. These had been made in the required form, and each one was accompanied by a sufficient bond. The bidders were: W. J. Murtagh, of Washington; James O. Ladd and William H. Towers, of Washington; and Thomas A. Osborne, of Leavenworth, Kansas. An estimate was also submitted by A. M. Clapp, Congressional Printer, as directed by law, "of the cost of reporting the debates, and of printing them at the Government Printing Office." The following tabulated statement of these four propositions may be better understood by reference to the more extended statement of each item in the preceding blank form of proposals.

Items of forms of proposals.	Description of work.	Quantities.	W. J. Murtagh.	Ladd & Towers.	Thomas A. Osborne.	Government Printing Office.
	PROPOSAL A.					
	Proceedings actually reported ..	Per thousand ems.....	\$0 84	\$1 70		\$1 00
	Matter supplied in print or MSS..	Per thousand ems.....	20	1 70		1 00
	PROPOSAL B.					
1	Type-setting, corrections, &c....	Per thousand ems.....	90	1 40	\$0 67	1 50
2	Printing and mailing daily sheet	The first 500 copies.....	14 00	17 71	28 00	9 39
3	Printing and mailing daily sheet	Each additional copy.....	02	03	04	02
4	Transposing type into quarto form.	Per thousand ems.....	20	04	20	03
5	Printing quarto sheet.....	The first 1,000 copies, each 8 pages.	10 00	13 01	47 00	8 18
6	Printing quarto sheet.....	Each additional 100 copies, each 8 pages.	93	1 27	4 70	82
7	Type-setting, &c., of the laws...	Per one thousand ems.....	90	1 12	87	1 50
9	Compiling and type-setting of the index.	Per one thousand ems.....	1 25	1 44	3 85	

The joint committee, wishing to submit to Congress a clear idea of the relative amounts of the proposals thus presented, had them applied to the Congressional Globe for the second session of the Forty-second Congress. The amount of type-setting in the seven volumes was measured as they successively appeared, and estimates were then made of what it would have cost for the reporting and printing under the proposal of each bidder, and under the estimate of the Congressional Printer.

While this calculation of comparative cost was being completed, in December last, the joint committee received from Messrs. Rives & Bailey a proposal for continuing the reporting and publication of the debates, differing in form from those which had been submitted in answer to the advertisement ordered by Congress. The joint committee regretted that this proposal had not been made in accordance with the prescribed form, so that it could be subjected to the comparative examination, but as this could not be done they have annexed it to this report.

Messrs. Rives & Bailey did, however, furnish the joint committee

with a statement of the total amount received by them for reporting and publishing the Congressional Globe for the second session of the Forty-second Congress. While this does not furnish the figures for a comparative estimate, in detail, with the terms proposed by the three bidders, and by the Congressional Printer, the joint committee is enabled to submit a correct estimate of what it would have cost to have reported and published the debates of the second session of the Forty-second Congress, with the index, &c., in accordance with the different proposals, and what was paid for this work to Rives & Bailey. The estimates made in accordance with this comparative plan have been verified by the bidders (except Mr. Osborne) and the Congressional Printer, and are believed by the joint committee to furnish a correct view of the relative cost of the different propositions.

	W. J. Murtagh.	Ladd & Towers.	T. A. Osborne.	Government Printing Of- fice.
PROPOSAL A.				
Reporting the debates.....	\$29,997 67	\$60,709 58	No bid.	\$35,711 00
PROPOSAL B.				
1 Type-setting, corrections, &c.....	32,140 36	49,996 12	\$23,926 85	53,567 27
2 500 copies of daily sheet, 150 days....	2,100 00	2,656 50	4,200 00	1,408 50
3 125 copies of daily sheet, 150 days ...	456 00	684 00	981 00	456 00
4 Transposing type into quarto form ..	7,142 30	1,428 46	7,142 30	1,071 35
5 Printing 1,000 copies quarto edition, 617 forms.....	6,170 00	8,027 17	28,999 00	5,047 06
6 Printing 11,332 additional copies, 617 forms.....	65,024 14	88,796 42	357,605 66	57,362 76
7 Type-setting, &c., of the laws	895 26	1,114 11	865 41	1,492 10
9 Compiling and type-setting of index.	2,921 77	3,342 90	8,935 96	5,803 66
Total	146,547 50	216,755 26		161,919 70

Throwing out the proposal of Mr. Osborne, as only made for the publication of the debates, the following summings up show what the reporting and publication of the proceedings of the second session of the Forty-second Congress would have cost, if executed by the parties named, as follows:

W. J. Murtagh.....	\$146,847 50
The Government Printing Office.....	161,919 70
Ladd & Towers.....	216,755 26
Rives & Bailey were paid.....	246,555 50

It is proper to state that the paper required by the proposals, for which W. J. Murtagh, Ladd & Towers, T. A. Osborne, and the Congressional Printer estimated, is thirteen pounds per ream heavier than the paper which was used by Messrs. Rives & Bailey, which virtually reduces the comparative estimates of each of the first four parties above named \$14,106.78.

It should also be stated that the comparative estimates for printing the daily folio sheet are based on the average issue of a single sheet, while Rives & Bailey, during the session established as a basis, often printed a sheet and a half, and occasionally a double sheet; this would make a comparative balance in favor of Rives & Bailey of a few hundred dollars. That firm also proposes to make an abatement of two and a half per cent. on all bills for the Forty-fourth Congress, and an abatement of five per cent. on all bills for the Forty-fifth Congress.

The Congressional Printer states that it would require an appropria-

tion of \$40,000 to provide additional accommodations for the publication of the debates, much of which would be available for other work, so that the proportionate expense for the publication of the debates would not exceed \$10,000.

In considering the different proposals it should also be borne in mind that while Rives & Bailey make no provision for changing the style of reporting, and make it a condition that the number of copies shall "not be less than that heretofore supplied to each Senator and member of Congress," the other proposals are so framed that Congress can order an abridgment of the style of reporting, and curtail the number of copies printed, under the terms of the contract.

The bid of W. J. Murtagh, of Washington, being the lowest, and he having filed a sufficient bond that he will enter into a satisfactory contract, in accordance with the proposals submitted by him, the Joint Committee on Public Printing has only to recommend the passage of such an act as will enable a contract to be executed with him, or, in case he is unable to execute such a contract, or to fulfill it after it shall have been made, to authorize the Joint Committee on Public Printing to have the debates reported and printed under the direction of the Congressional Printer.

APPENDIX.

CONGRESSIONAL GLOBE OFFICE,
Washington, D. C., December 18, 1872.

SIR: The contract existing between the General Government and ourselves for reporting and printing the proceedings of the Forty-second Congress will expire with the present session, on the 4th of March next.

We desire to place in your hands, for the consideration of your honorable committee, a proposition for the continuance of the work during the Forty-third, Forty-fourth, and Forty-fifth Congresses—a period of six years from the expiration of the present contract.

On our part we agree—

First. To report the debates and proceedings of the two Houses of Congress, and to print the same in the Daily Globe, using the same kinds of type and the same quality of paper as are now used in that publication; to issue it in season to be sent from Washington by the earliest mails leaving on the morning of its publication, when the matter shall not exceed forty columns; and when the matter shall exceed forty columns the publication of such excess shall be deferred until we find, using all due diligence, its publication practicable; and the publication of all speeches not delivered *in extenso* in either House shall be deferred until it will not extend the measure of the work beyond the said forty columns—the columns to be of the same length and width as those in the present issue of the Daily Globe; this service to be paid for at the rate of ten (10) dollars and thirty (30) cents per column, which shall cover all charges for composition of type, both bavier and nonpareil, and all corrections in such matter.

Second. To furnish two copies of the Daily Globe to each member of the Senate and House of Representatives, and one copy to each of such committees of either House as may desire it, at 1 cent per page for each copy, which charge shall cover all expenses for mailing both this issue and such copies of the quarto issue as members may desire to have mailed direct from the office of publication.

Third. To transfer the matter from the Daily Globe into quarto form, in pages of the size of the present issue of the Congressional Globe and Appendix, and print the same on paper of the same weight and quality as that now used for this publication, at 2 mills per page, the number of copies to be not less than that heretofore supplied to each Senator and member of the House of Representatives.

Fourth. To print the laws passed by Congress in the same manner as the debates and proceedings, and at the same rates.

Fifth. To furnish an ample index to the quarto edition, one copy only to be supplied to each copy of the work for any session, which shall be printed in bavier type, in the same manner as the debates and proceedings, the charges for which shall be at the rate of two and one-half times those above named for the debates and proceedings.

Sixth. To furnish storage, free of charge, for the printed sheets of the Congressional Globe and Appendix, for such reasonable time as the Congressional Printer may desire, who shall give duplicate receipts therefor at such times as we may require.

The accounts for reporting and printing the proceedings in the Daily Globe, and for copies of the Daily Globe supplied to Congress and its committees, to be paid monthly; and the accounts for the quarto edition to be paid as the work progresses, at our request. All accounts for work done for the Senate to be audited by its Secretary, and the accounts for work done for the House of Representatives to be audited by its Clerk, or by their respective and duly authorized attorneys, and paid by the proper accounting officers of the Treasury Department.

With a security that the work will remain in our hands for six years, we can make much more favorable contracts for materials, and we should feel justified in multiplying our labor-saving machines; and we are willing to give these advantages to the Government. We therefore further agree that we will make an abatement of two and a half per cent. from the gross amount of each and every bill for work done on the Forty-fourth Congress, and an abatement of five per cent. from the gross amount of each and every bill for work done on the Forty-fifth Congress.

If it should be deemed advisable by Congress to change the plan of executing the work, as, for instance, to require a heavier paper, or to multiply the indexes, an equitable modification of this proposition will be made.

Should Congress desire us to continue the work upon the basis herein proposed, which is the same in substance as the present contract, we are prepared to give bonds in the sum of one hundred thousand dollars to secure to the Government the faithful performance of the promises we make.

We are, very respectfully,

F. & J. RIVES & GEO. A. BAILEY,
Proprietors of the Globe.

HON. HENRY B. ANTHONY,
Chairman Joint Committee on Printing.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 12, 1873.—Ordered to be printed.

Mr. NYE submitted the following

R E P O R T :

[To accompany bill S. 1576.]

The principles and facts in this case are similar to those involved in the Senate bills Nos. 1209, 1210, and 1260.

On the 22d day of October, 1862, the Navy Department entered into a contract with J. B. and W. W. Cornell & Co., of New York City to build turrets, pilot-houses, and smoke-pipes for two double-turreted iron-clad steamers. The work was to cost two hundred and eighty-two thousand and fifty dollars, and be completed in four months.

The Navy Department directed changes to be made in the plans and specifications of the work, causing delay so that the work was not completed until June 26, 1865, twenty-eight months later than the time specified in the contract.

The direct expenses of making the changes were generally paid, though at the final settlement certain items were thrown out in consequence of a misapprehension of the facts governing them, on the part of the auditing officers, leaving a large sum of money justly due to the Messrs. Cornell.

During the delay, caused entirely by the action of the Navy Department in making changes from the original intentions, the prices of materials and labor increased so that it cost more to accomplish the work, which was executed in accordance with the contract, than would have been the case if the work had been performed in four months, as provided in the contract. The difference in the cost of executing the work, which it is alleged was completed in accordance with the stipulations in the contract, and the unpaid items for changes made, constitute the claim.

Such is the history, in brief, of this matter, and upon a full consideration of the subject your committee recommend, as a relief to the claimant, the legislation provided in the bill herewith reported.

THE HISTORY OF THE UNITED STATES

OF THE UNITED STATES OF AMERICA

FROM 1776 TO 1876

BY

JOHN B. HARRIS

OF THE UNIVERSITY OF CALIFORNIA

AND

OF THE UNIVERSITY OF MICHIGAN

AND

OF THE UNIVERSITY OF ILLINOIS

AND

OF THE UNIVERSITY OF WISCONSIN

AND

OF THE UNIVERSITY OF MINNESOTA

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 12, 1873.—Ordered to be printed.

Mr. MORRILL, of Maine, submitted the following

REPORT :

[To accompany bill S. 1338.]

The Committee on Naval Affairs, to whom was referred the bill (S. 1338) "for the relief of the Portland Company," having considered the same, ask leave to report :

The committee find that, in 1862, the Navy Department, in pressing necessity, urged this company to contract for the building of the machinery for the double-enders the Agawam and the Pontoosuc. The vessels were under contract, and the necessity for immediate contracts for machinery was imperative. The plans and specifications were unprepared, and were to be furnished the contractors as soon as possible. What should be the basis for price? It was deliberately determined, and so made known to the contractors, that the weight of the machinery for these vessels should not exceed in weight the machinery of the Paul Jones by more than 15 per cent. With this as a basis the contracts were entered into. From time to time these promised plans and specifications were furnished, the machinery completed according to them, and, when completed, it was found that the weight thereof exceeded that of the Paul Jones by nearly 67 per cent., and the cost, in excess of that legitimate to the contract in the case of these claimants, was made \$81,000; the Selfridge board, from hearing and proof that these claimants had suffered a loss of over \$80,000, making no allowance for profits. This loss resulted from no neglect of these claimants, nor have they ever been compensated therefor.

In the opinion of your committee, there is no good and sufficient reason why this claim should not be adjudicated upon by some competent tribunal, and they recommend reference to the Court of Claims, and the enactment of the accompanying bill, as a substitute for the one referred.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 12, 1873.—Ordered to be printed.

Mr. NYE submitted the following

REPORT :

[To accompany bill S. 1260.]

The Committee on Naval Affairs, to whom was referred a bill for the relief of Miles Greenwood, ask leave to present the following report :

In 1862 and 1863 the Navy Department made large contracts with various parties in different parts of the country for the construction of vessels of war and steam machinery, involving the expenditure of about thirty million dollars. One was made with Miles Greenwood, of Cincinnati, Ohio.

This contract required the work to be done within a stipulated period, and the contractor alleges that the work would have been done within that period but for delays occasioned by the Navy Department in the changes of the plans of the vessel, and the consequent interruptions of the work, and other delays caused by the action of the Government.

These interruptions and delays occurred at a time when the prices of labor and of all materials, owing to the issue of paper money by the Government, were rapidly increasing, whereby, it is alleged, the expense to the contractor was greatly enhanced without fault on his part. He claims that the increased cost to him over and above the contract prices amounted, in the aggregate, to a very large sum. Had this increased cost occurred without any interference by the Government in the prosecution of the work, the contractor could claim nothing from the Government but such gratuity as it might be pleased to bestow; but as it appears that some of it must inevitably have resulted directly from the delays in the work caused by the Government, the Government ought to pay such part of the increased cost as resulted from its own acts and was not specifically provided for in the contract, whenever the amount thereof shall have been definitely ascertained by some tribunal designated by itself.

This obligation has, in connection with these claims, been recognized by both the Navy Department and Congress; by the Navy Department in paying to some contractors large amounts over and above the contract prices, and yet, as is averred, leaving them heavy losers by the action of the Government; by the Senate in its resolution of March 9, 1865, requesting the Secretary of the Navy to organize a board to investigate the subject, the report of which board is on the files of the Senate, (Ex. Doc. No. 18, Thirty-ninth Congress, first session;) and by the Congress in the passage of the "act for the relief of certain contractors for the construction of vessels of war and steam machinery," approved March 2, 1867, which required the Secretary of the Navy to

re-investigate the subject and define the principles and rules which should govern his investigation and decision.

The resolution of the Senate authorizing the organization of a board required it "to inquire into and determine how much the vessels of war and steam machinery contracted for by the Department in the years 1862 and 1863 cost the contractors, over and above the contract price, and allowance for extra work."

Before this board fifty-eight claims were presented, upon which the board allowed, in accordance with the terms of that resolution, an aggregate of \$2,270,687.18.

Under the act of March 2, 1867, a second board was organized by the Secretary of the Navy, and proceeded to investigate the subject. Neither of these boards allowed Mr. Greenwood any sum whatever, and he is, therefore, constrained to ask Congress to allow him to go before the Court of Claims and endeavor to prove his claim for these extraordinary outlays consequent upon and absolutely resulting from the course of the Government in prolonging the work and altering the original plans; said court to hear and try the case on the principles set out in the bill. So much time has elapsed since this claim had its origin, that, without the passage of this bill, the Court of Claims cannot take jurisdiction of the suit, and Mr. Greenwood is without remedy. The justness of the claim cannot be questioned and has not been questioned, hitherto, by any of the officers of the Government to whom it has been presented. Congress, during the third session of the Forty-first Congress, passed the joint resolution No. 92, "For the relief of certain contractors for the construction of vessels of war and steam machinery," which gave the court the jurisdiction now contemplated by the bill which accompanies this report; but the President returned it with his veto, upon the ground that the bill did not provide that the extraordinary advances could not have been avoided by the exercise of ordinary diligence and prudence on the part of the contractors. That omission is supplied in the present bill, thus meeting the objection of the President. The sole object of this bill is to allow Mr. Greenwood to go before the Court of Claims and have the whole subject re-investigated there. The bill guards the Government against the payment a second time of any money already paid to the contractor on account of these extraordinary outlays. The committee have carefully looked into the claim of Mr. Greenwood, and cannot shut their eyes to the many merits it contains. The committee reach this conclusion the more freely because, from all that they can learn, the contractor is an upright and meritorious man, who is not seeking to prey upon the Government, but to obtain a just compensation for losses he has sustained by the Government's own act. In the opinion of the committee he should not be denied the opportunity of making good his claim before a tribunal where it may confidently be expected that no undue advantage against the Government could, in any sort of probability be obtained.* The vessel which he constructed, the iron-clad *Tippecanoe*, was built at Cincinnati, Ohio, where, during the period of the prolonged time of its construction, there were many serious interruptions to business by the impending war; the city at one time, in 1862, being seriously threatened by a large confederate force in Kentucky, which besieged the city for many weeks, thus completely preventing Mr. Greenwood from proceeding with the work during all the time the troubles continued, making it impossible to secure hands or materials for the prosecution of the work. Besides, during this prolonged time, the demand of the Government for men in the Army became so urgent that none could be spared for use in the work, more

especially after the Government resorted to the system of draughting. These circumstances, caused by the Government, worked to the prejudice of Mr. Greenwood and seriously interfered with his work, and prevented its completion within the contract time; so that if the delays caused by the changes in the plans and specifications of the work, by those in charge for the Government, compelled him to pay the high prices for labor and material consequent upon the depreciation of United States currency and the rapid advance in the price of gold, did not form an important element in this claim, these circumstances would constitute an equitable claim in his favor.

In accordance with these views, your committee cannot hesitate to report this bill and recommend its passage.

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 3484.]

The Committee on Pensions, to whom was referred bill H. R. 3484, granting a pension to Asenath Stephenson, submit the following report :

Le Roy Stephenson, the son of the beneficiary of this bill, was a private in Company G, Sixty-first Illinois Volunteers; was wounded in the foot by his ax while cutting wood, and in the line of duty. He died because of this wound in a hospital in Murfreesborough March 29, 1865. He was returned on the muster-roll as having died of delirium tremens. For this reason the mother was not able to procure a pension.

The record in the War Department was afterward corrected on satisfactory proof that the soldier died because of this wound. But this correction was not made until the statute of limitation had commenced running against the claim, and the Commissioner was of opinion that he could not remove the bar created by the 6th section of the act of July 4, 1864, and hence the claim was again rejected in November, 1872.

The husband of Mrs. Stephenson died in 1848. She was dependent upon this son before he entered the service, and he sent her part of his pay after entering the Army. She is now seventy years of age, and has no one to depend on. The son was never married, and of course left neither widow nor children. On the proofs she would doubtless have obtained a pension but for the bar of the statute.

The committee are of opinion from the evidence that the said son died because of the wound incurred in the service and in the line of duty, and that his mother was so far dependent upon his earnings for her support at the time of his death as to be entitled to a pension, and hence recommend the passage of the law to the Senate without amendment.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

R E P O R T :

[To accompany bill H. R. 2988.]

The Committee on Pensions, to whom was referred House bill (No. 2089) granting an increase of pension to Jedediah Gray, submit the following report :

The bill in this case increases the pension of Mr. Gray from \$6 to \$8 per month.

Mr. Gray was pensioned as enlisted artificer of the Ordnance Department under the act of July 10, 1848. Certificate 4346 issued to him June 15, 1849.

There is nothing in the testimony showing when or how he received his injuries, nor their extent at the time he was pensioned. One witness knew him as far back as 1840, eight years before the pension. Gray was then much troubled with lameness in his right foot, and so badly disabled by his lameness as to be compelled to quit work occasionally. His disability has been increasing from that time until he is unable to work any longer.

Another witness swears that the pensioner has been lame in his right foot and on his left hand and wrist ever since he knew him, and that he has been continually growing worse, until finally he has become entirely unable to support himself by manual labor.

Still a third witness has known Gray since 1829, when he worked in the Watervliet United States arsenal, at West Troy, in the State of New York, and was in the service of the United States. He was at that time afflicted by pain and lameness in his left wrist and arm and right foot, and ever since the witness knew him Gray has been doctoring and trying to cure himself.

Two other witnesses testify to knowing him since 1828, when he was in the service of the United States, manufacturing gun-carriages, and they express the belief, from information received by them, and which they believe to be true, that he received the injuries resulting in the lameness before spoken of while he was in the service of the Government, and in the Ordnance Department, unable to support himself by manual labor. They say that he is dependent upon his pension for subsistence.

None of the witnesses testify from personal knowledge as to the mode of the injury.

If Mr. Gray has made any affidavit in the premises it is not among the papers.

He is proved to be an industrious, honest man, of good habits, and is now very old.

The committee are of opinion the bill should pass, and recommend the passage of the bill.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1873.—Ordered to be printed.

Mr. POOL submitted the following

REPORT:

[To accompany bill S. 1582.]

The Committee on Revolutionary Claims, to whom was referred the petition of Elizabeth Montgomery, heir of Hugh Montgomery, having had the same under consideration, and concurring in the views of this committee at last session of the 34th Congress, as explained in their report of that session, adopt that report as their own at the present session; and they accordingly report the bill back to the Senate without amendment, and recommend its passage.

The report above referred to is as follows:

IN THE SENATE OF THE UNITED STATES, January 22, 1857.

The Committee on Revolutionary Claims, to whom was referred the petition of Elizabeth Montgomery, daughter of Captain Hugh Montgomery, praying relief, beg leave to report:

The memorial of the petitioner, which is very circumstantial in substance, presents these facts: She is the daughter of Captain Hugh Montgomery, formerly of Wilmington, in the State of Delaware, and employed as captain of the brig Nancy, of that port, belonging to himself and others. That in the latter part of the year 1775 the said brig, chartered by Robert Morris, then a member of Congress, was dispatched to the West Indies with a cargo of flour to be sold, and the proceeds returned to the United States in gunpowder and munitions of war. The cargo was sold at Porto Rico, and the Nancy then proceeded to St. Croix, where she was privately loaded with her return cargo, consisting of 460 barrels of gunpowder, six long four-pounders, sundry chests of small-arms, and other munitions of war, and with sundry articles of merchandise belonging to the said Montgomery. After the reception of his cargo, by means of the cannon, and some swivels and other arms, Captain Montgomery converted his ship into a vessel of war, and sailed for the Delaware, in order that he might deliver his cargo at Philadelphia, according to his directions. When he approached the Delaware capes he was intercepted by two British ships of war. He succeeded in beating off the boats sent to capture him; but finding it impossible to escape capture, he ran his ship into shoal water, and commenced removing the powder and munitions of war to the shore, and securing them from capture, leaving the private property to its fate. He kept off the enemy's boats whilst he landed 244 barrels of the powder, the cannon, small-arms, and other munitions of war, with the aid of Captain Weeks, who commanded some American vessels of war within the capes. When he had so far succeeded in saving the cargo, one of the enemy's vessels approached within three hundred yards, cast anchor, and opened a destructive fire, while several boats filled with men approached for the purpose of boarding the Nancy. Finding it impossible to save more of the powder and the private property, he left the vessel, having laid a train and a match communicating with the powder, preferring to destroy both his vessel and the rest of her cargo, rather than it should fall in the hands of the enemy. The boats' crews had scarcely taken possession of the vessel, when she was blown up, with all on board, and, with the remains of her cargo, was destroyed. That part of the cargo which had been saved was transported to Philadelphia, and safely delivered to the agents of the Government. Subsequently to this, Captain Montgomery went to sea in a private armed ship, was captured by a British cruiser, imprisoned for a long time, and treated with great harshness on

account of the destruction of so many British sailors, by blowing up his vessel, as before stated. During his long imprisonment his mind became disordered; and during his voyage homeward, after his relief, he leaped overboard in a fit of insanity, and was drowned; leaving a widow, who has been long dead, and the petitioner, his only child, then a small girl.

The petitioner prays that Congress should make her some compensation for the losses of her father, sustained in the destruction of his vessel, as before stated, and for his patriotic conduct in saving the public property, then so much needed, to the neglect of his own, which he might have saved, instead of that which belonged to the public.

A claim is set up for the value of this private property, shipped on board the Nancy on his own account. But of this no satisfactory evidence has been given, and the committee have been unable to form any estimate of its value. As to the other part of the claim, the main facts are fully proved by an affidavit of Captain Mendenhall, who was one of the crew of the Nancy, and cognizant of all the facts of the voyage, and the safe landing of the greater part of the munitions of war. The blowing up of the vessel and the saving of the gunpowder are stated in an original letter, filed with the evidence, from George Reed, one of the signers of the Declaration of Independence, to his wife, dated the 6th of July, 1776, a few days after the occurrence. And on the whole, the committee are of the opinion that the facts hereinbefore set forth are satisfactorily proved.

If, as is alleged, the vessel was chartered for the purpose set forth, it is presumed no doubt could exist that the Government ought to pay; the destruction being beneficial to it, and inevitable under the circumstances, to prevent the vessel and her cargo from falling into the hands of the enemy. Many claims of this kind have been paid.

The great difficulty in allowing this claim is its antiquity; but in this case the delay is satisfactorily accounted for.

On a review of the whole case, the committee have come to the conclusion that the petitioner ought to be liberally remunerated, to the extent of any loss sustained in the destruction of the vessel by her father. But after such a length of time no evidence could be furnished of the value of the vessel. Any estimate would be conjectural; but as the claim is a just one, they have come to the conclusion to give her \$5,000, as a full and final satisfaction of her claim, and report a bill for that purpose.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1873.—Ordered to be printed.

Mr. SAULSBURY submitted the following

REPORT:

[To accompany bill H. R. 2554.]

The Committee on Pensions, to whom was referred the bill (H. R. 2554) granting a pension to Jennie E. Savage, have had the same under consideration, and submit the following report:

It appears from the evidence in this case that Jennie E. Savage is the minor daughter of William E. Savage, who was a contract-surgeon in the Army of the United States, and died at Ringgold, Texas, in 1867, and that said minor is under the age of sixteen years. The widow of said William E. Savage obtained a pension after the death of her said husband, but has since remarried, and consequently lost her pension. Application was made to the Department for a pension for the said daughter by her guardian after the marriage of her mother, but rejected on the ground that no evidence in the Department showed that the father died while in the line of his duty. He was a contract-surgeon on duty at Brownsville, Texas, and the records do not show why he was at Ringgold, in that State, at the time of his death. Nor is there any evidence bearing on that point. In the widow's application the objection now made by the Department was not raised, nor is there any suggestion, other than the circumstance referred to, that the father's death did not happen while in the service and in the line of his duty. The committee are of opinion that the objection now made is not well taken, and that the bill ought to pass.

○

THE HISTORY OF THE
INDEPENDENT CHURCH OF
THE UNITED STATES OF AMERICA
FROM 1780 TO 1820
BY
JOHN C. CALDWELL
OF THE
CHURCH OF THE UNITED STATES OF AMERICA
IN THE
CITY OF NEW YORK
PUBLISHED BY
JOHN C. CALDWELL
AT THE
PRINTING OFFICE OF
JOHN C. CALDWELL
NO. 10 NASSAU ST. N.Y.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1873.—Ordered to be printed.

Mr. SAULSBURY submitted the following

REPORT:

[To accompany bill H. R. 2562.]

The Senate Committee on Pensions, to whom was referred House bill (H. R. 2562) granting a pension to John Fink, having considered the same, submit the following report:

The papers accompanying the bill show that John Fink was a private in Company G, First Regiment Potomac Home Brigade Maryland Volunteers, enrolled September 18, 1861; discharged or mustered out October 24, 1864. That while in the service he was injured by being run over by a train of cars, near Frederick City, Maryland, and has suffered amputation of one leg. The said claimant, in his petition, alleges that the injury occurred as follows: That while returning from picket duty he attempted to jump on a passing train of cars, but missed his hold and fell, and the train crushed his leg and knee, and from the injury amputation ensued. This statement seems to be corroborated by other proof, but does it entitle him to a pension? It is not pretended that he was ordered by any one to attempt to get on board the passing train, but that it was his own voluntary act is admitted. He states that it was customary with the soldiers to do so, but that does not alter the case. The act was voluntary, not necessary to the performance of his duty as a soldier, and not only imprudent, but, as the result in his case proved, extremely unwise and dangerous.

The committee regret his misfortune, but cannot recommend the passage of the bill.

THE HISTORY OF THE UNITED STATES

OF THE

REPUBLIC

OF THE

UNITED STATES

The history of the United States is a story of the growth of a great nation from a small colony of English settlers. The first settlers came to the New World in search of a better life, and they found it. They built a new society, one of freedom and opportunity, and they made it a reality. The story of the United States is a story of the triumph of the human spirit over adversity, and it is a story that inspires us to this day.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1873.—Ordered to be printed.

Mr. SAULSBURY submitted the following

REPORT:

[To accompany bill H. R. 2563.]

The Committee on Pensions, to whom was referred the bill (H. R. 2563) granting a pension to William E. Farley and John M. Farley, report as follows:

William E. Farley and John Farley are minor children of A. J. Farley, late a private in Company F, Fifth Regiment West Virginia Infantry, who died while in the military service in 1863. It appears from the papers accompanying the bill that said A. J. Farley was shot while in camp by a sergeant of the company, who was tried by a court-martial and hung for the murder of Farley. The testimony, consisting of affidavits of fellow-soldiers of the deceased, shows that he was a peaceable man and a good soldier, and that his murderer was a violent man and committed the murder without provocation. The trial, conviction, and execution of Sergeant Marcum for the murder of Farley warrant the belief that the latter was slain from no fault of his own. While his death was not the necessary result of his military service, he was nevertheless deprived of life while in said service, and the committee are of opinion that the Government ought to make some provision for his minor children, and recommend the passage of the bill.

THE STATE OF NEW YORK

IN SENATE

JANUARY 1, 1870

REPORT

REPORT

OF THE

COMMISSIONERS OF THE LAND OFFICE
IN RESPONSE TO A RESOLUTION PASSED BY THE SENATE
ON JANUARY 1, 1870
RELATIVE TO THE LANDS BELONGING TO THE STATE
AND THE MANNER OF DISPOSING OF THEM
ALSO
A REPORT ON THE PROGRESS OF THE LAND OFFICE
DURING THE YEAR 1869
AND
A REPORT ON THE PROGRESS OF THE LAND OFFICE
DURING THE YEAR 1870

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1873.—Ordered to be printed.

Mr. HAMILTON, of Texas, submitted the following

R E P O R T :

[To accompany bill H. R. 2533.]

The Committee on Pensions, to whom was referred House bill No. 2533, granting a pension to James W. Wharton, have had the same under consideration, and submit the following report :

The bill recites that James W. Wharton enlisted in Company C, First Pennsylvania Rifles, to serve for three years, and, while in the line of duty at the battle of Fredericksburgh, Virginia, December 13, 1862, received a severe gunshot wound in his lower jaw, and from thence passing into his right shoulder, fracturing and otherwise injuring his shoulder; and that since receiving his wounds he has been unable to properly masticate his food or to perform any description of manual labor.

There are no papers accompanying the bill, not even a petition; no evidence of service or of the disability alleged to have been contracted therein. The monthly allowance authorized is \$15, and to commence or to be computed from the date of his discharge. It does not appear from the recitals in the bill that any previous steps had been taken to procure a pension.

Without some evidence of the service and the grade of disability under which the applicant labors, how and when it was contracted, together with some explanation of the long delay in making his application, (seeing that he has been in the condition now represented since receiving his wounds,) the committee feel constrained to recommend that the bill be indefinitely postponed.

REPORT

REPORT

THE AMERICAN MEDICAL ASSOCIATION

REPORT OF THE AMERICAN MEDICAL ASSOCIATION
ON THE PROGRESS OF MEDICINE IN THE UNITED STATES
DURING THE YEAR 1918

The American Medical Association has the honor to acknowledge the receipt of the report of the Committee on the Progress of Medicine in the United States during the year 1918. The report is a valuable contribution to the knowledge of the progress of medicine in this country, and it is hoped that it will be of great interest and value to the medical profession and the public alike. The report is divided into two parts, the first of which deals with the progress of medicine in the United States, and the second of which deals with the progress of medicine in the world. The first part of the report is divided into three sections, the first of which deals with the progress of medicine in the United States, the second of which deals with the progress of medicine in the world, and the third of which deals with the progress of medicine in the United States. The second part of the report is divided into two sections, the first of which deals with the progress of medicine in the world, and the second of which deals with the progress of medicine in the United States. The report is a valuable contribution to the knowledge of the progress of medicine in this country, and it is hoped that it will be of great interest and value to the medical profession and the public alike.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1873.—Ordered to be printed.

Mr. HAMILTON, of Texas, submitted the following

R E P O R T :

[To accompany bill H. R. 2130.]

The Committee on Pensions, to whom was referred the bill (H. R. 2130) granting a pension to Simeon Farnsworth, have had the same under consideration, and submit the following report :

It appears from the records of the War Department, as certified to the Committee of Pensions by the Adjutant-General, under date of ———, that Simeon Farnsworth was enlisted on the 10th day of May, 1814, at Waldon, Vermont, to serve for five years, and was assigned to the Thirty-first Regiment of United States Infantry, which regiment was changed to light artillery after the 17th May, 1815; that he served in Captain Rufus Stewart's and A. W. Thompson's companies, and deserted the light artillery from Fort McClary, August 7, 1816.

The applicant does not in terms deny the charge of desertion, but substantially admits it. He pleads in extenuation that he furnished a substitute, and was furloughed for six months; was taken sick before the expiration of the furlough, which was reported to the commanding officer through his attending physician, and that he did not recover from the sickness until after the disbanding of the company. Besides, he states that he was enlisted while a minor under the direction of his father, who, as well as himself, supposed the engagement was for and during the war only. But there is no other testimony to rebut the plain record evidence, which cannot be explained away by misconstruction as to the terms of enlistment; and so grave an offense against military discipline should not be disregarded.

The committee recommend the indefinite postponement of the bill.

REPORT

REPORT

The following report was presented to the Society at the meeting held on the 11th of January, 1901, by the Hon. Mr. [Name], President of the Society, and read by Mr. [Name], Secretary.

The report relates to the work done during the year 1900, and is divided into two parts, the first dealing with the general work of the Society, and the second with the work of the various committees.

In the first part, the President reported that the Society had held 12 meetings during the year, and that the total number of members present was 1,234. He also reported that the Society had received 15 new members, and that the total number of members was now 1,249.

In the second part, the President reported on the work of the various committees. The Committee on the History of Man, under the chairmanship of Mr. [Name], had held 10 meetings, and had published 10 papers. The Committee on the Physical Anthropology of Man, under the chairmanship of Mr. [Name], had held 8 meetings, and had published 8 papers. The Committee on the Social Anthropology of Man, under the chairmanship of Mr. [Name], had held 6 meetings, and had published 6 papers.

The President concluded his report by saying that the work of the Society during the year 1900 had been very successful, and that he hoped that the work of the year 1901 would be equally successful.

The following is a list of the names of the members of the Society who were present at the meeting held on the 11th of January, 1901:

[List of names]

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1873.—Ordered to be printed.

Mr. HAMILTON, of Texas, submitted the following

REPORT :

[To accompany bill H. R. 2440.]

The Committee on Pensions, to whom was referred the bill H. R. 2440, have had the same under consideration, and submit the following report :

The evidence on file shows that Caroline H. Miller, the petitioner, is the widow of James F. Miller, late a commodore of the United States Navy, who was seized with apoplexy and paralysis while in the line of duty as lieutenant on board the United States ship Jamestown, cruising on the Brazil station, January, 1853, and, under the advice of a medical board, sent home on sick-leave, and never again entered upon duty. On application he was admitted to the Navy pension-roll, with the rank of lieutenant, at the rate of \$25 per month, to be computed from the 20th September, 1860. He died July 11, 1868, of the effects of disease contracted, as his physician testifies, in the service; whereupon petitioner filed her claim to pension under the act of July 14, 1862, as the widow of a commodore of the United States Navy in the war of 1861, and her name was placed on the pension-roll at the rate of \$30 per month, to date from the death of her husband. She now petitions Congress for the arrears alleged to be due to her husband, under the act of April 23, 1800, from the date of his disability until the commencement of his pension on the 20th September, 1860. The bill ignores the arrearages petitioned for, and grants her an augmentation, making it \$50 instead of \$30.

It is difficult to see upon what grounds the Commissioner of Pensions fixed her pension at \$30 per month, seeing that her husband, though he may have been promoted to the rank of commodore, had been for many years on sick-leave, and in receipt of a lieutenant's pension for total disability; did no service whatever during the war of 1861, and was not wounded or disabled after the 4th day of March, 1861, and not at all as a commodore, and therefore not entitled to the rate of pension fixed by the first section of the act of July 14, 1862, for captain, commander, or lieutenant-commanding. Still less can the committee find any ground for the increase of pension proposed by the bill under consideration. The applicant has no minor children, and the rate is two-fifths larger than that provided by the general laws for officers of the highest rank, either in the Army or Navy, even when killed in the service or totally disabled while holding such rank. There seems to be as little ground for the claim to arrears of pension, which, in fact, is the only thing petitioned for, as far as the papers disclose. The pension was granted to Lieutenant Miller as soon as the needful proof was completed, and dated back to the original application.

The committee recommend the indefinite postponement of the bill.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1873.—Ordered to be printed.

Mr. PRATT submitted the following .

R E P O R T :

[To accompany bill H. R. 2530.]

The Committee on Pensions, to whom was referred the bill (H. R. 2530) granting a pension to Mrs. A. D. Brooks, submit the following report :

The applicant bases her claim upon the long and honorable service of her late husband, and the belief that he died of disease contracted while in the Army and in the line of duty.

The testimony is meager. It consists of the certificates of two surgeons of the United States Army, who treated deceased at different times while in the service for the same disease of which he died, and the certificate of the physician who treated him in his last illness. There is no report of the House committee embodying information or facts outside of the papers on file, nor among these is there any evidence furnished from the Medical Department of the Army touching the disability or treatment of deceased. The statement from the War Department in respect to his military history is presented, and is satisfactory, and sustains statements made in regard thereto. Perhaps it may have been furnished and has been mislaid, though it is not so important. It is alleged that the late General Brooks was in sound health when he entered the service in 1841, and that he served almost continuously from that date until 1864, when he resigned in consequence of ill-health, contracted during his long service and the great exposure incident to campaigns in Florida and Mexico. He died in 1870 of inflammation of the bladder.

Dr. Burritt, who waited upon him in his last sickness, certifies that he was first consulted by deceased in 1869, and considered his case chronic cystitis, but he gives no opinion as to the cause or how the disease was contracted.

Surgeon J. C. McKee, United States Army, certifies December 18, 1871, that in 1858 he was on duty at Fort Defiance, New Mexico, with General (then brevet Major) W. T. H. Brooks, captain in the Third United States Infantry, and considered it necessary for the health and ultimate recovery of the major to give him a certificate of disability on which to ground an application for a leave of absence; that he found the patient "suffering from an obstinate and very severe organic stricture of the urethra, accompanied by constant and uncontrollable discharge of pus, repeated chills, and great irritability of the bladder." He further certifies that the cause was to him unknown; "that such

cases are not always necessarily produced by specific disease, and may have arisen from fatigue of horseback exercise or exposure in the service and in the line of duty."

Surgeon E. H. Abadie, United States Army, testifies under date of the 16th of March, 1872, that on the march across the plains, from the Missouri River to Santa Fé, New Mexico, in 1852, with a detachment of recruits, under command of Colonel E. Stone, he was called in by Major Brooks, who suffered greatly on the march from stricture of the urethra; that the cholera broke out among the troops on the Missouri River, and continued to rage with great violence until the command reached the Arkansas River, causing great anxiety and fatigue among the officers; that afterward, in 1855, while the headquarters of the regiment were at Santa Fé, he again attended Major Brooks for the same difficulty, and then urged him to go East, and have an operation performed for the radical cure of his disease.

The father of the late General Brooks states that his son was sound and healthy when he entered the service; that he first complained after his return from the campaigns in Mexico in 1848, where he (the general) supposed his disease was contracted, or in the previous campaign in Florida.

Conceding the long and honorable service of General Brooks, and giving full credit to the belief expressed by himself and friends as to the cause of the disease of which he died, yet, in the absence of testimony, and even with the testimony here presented, the weight of probability seems greatly against the assumption that it resulted from exposure or fatigue incident to the service and in the line of duty.

Doubtless many cases of no greater, perhaps of less merit, have passed through Congress, and even through the Pension-Office. Yet, upon the evidence here presented, the committee are not prepared to recommend the passage of the bill.



IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1873. - Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 3799.]

The Committee on Pensions, to whom was referred the bill (H. R. 2612) for the relief of Antoine Brossa, of Company I, Eighty-third Regiment New York Volunteers, submit the following report:

The claimant was enlisted on 17th July, 1863, to serve three years, and was discharged on the 27th of August, in the same year, at Convalescent Camp, Virginia, on surgeon's certificate that he found him incapable of performing the duties of a soldier, because of myctologia, existing when he was enrolled. His claim was rejected by the Commissioner of Pensions, because of the record evidence that the disability existed when the soldier enlisted.

On the contrary, it is very satisfactorily proved that he was a sound and healthy man when he enlisted. He claims that his disability grew out of wading a stream in Virginia, four feet in depth, and sleeping on the ground in his wet clothes. He is now a hopeless paralytic, shattered in mind and body, helpless as an infant.

The Commissioner of Pensions, in a letter to the chairman of the Committee on Pensions in the House, under date of the 10th of January, 1873, says he is personally familiar with the facts in Brossa's case, and knows it to be worthy of congressional action.

The committee recommend the passage of the bill.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 3833.]

The Committee on Pensions, to whom was referred bill (H. R. 3833) increasing the pension of Helen M. Stansbury, submit the following report:

Mrs. Stansbury is the widow of Major Howard Stansbury, United States Army, who was appointed first lieutenant in corps Topographical Engineers July 7, 1838, promoted captain July 18, 1840, and major August 6, 1861. He was placed on the retired list September 28, 1861, and he died April 17, 1863, at Madison, in the State of Wisconsin, holding the rank of major in the Army at the time.

He died of heart disease, and the evidence very clearly shows that the origin of that was in 1859, when Captain Howard was in command of an exploring party in Utah Territory. The testimony of his son establishes that point very clearly. This was before he was promoted to be major.

His widow is now drawing a pension at the rate of \$20 a month. The object of this bill is to increase the rate to \$25 a month—the rate belonging to the widow of a major. The only point in the case is, whether she should have a pension according to the rank of her husband when he died, or when he incurred the disability resulting in his death.

The committee are of the opinion that the law in this case has been correctly applied, and ask to be discharged from the further consideration of the bill.

IN THE SENATE OF THE UNITED STATES

REPORT

OF THE

REPORT

OF THE

COMMISSIONERS OF THE LAND OFFICE

IN RESPONSE TO A RESOLUTION PASSED BY THE SENATE, MARCH 10, 1854, RELATIVE TO THE LANDS BELONGING TO THE UNITED STATES, AND TO THE LANDS BELONGING TO THE SEVERAL STATES, AND TO THE LANDS BELONGING TO THE SEVERAL TERRITORIES.

ALBANY: PUBLISHED BY J. B. LEECH, 1854.

THE SENATE OF THE UNITED STATES, IN SENATE, MARCH 10, 1854.

REPORT OF THE COMMISSIONERS OF THE LAND OFFICE.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1873.—Ordered to be printed.

Mr. HILL submitted the following

REPORT:

[To accompany bill S. 1588.]

The Committee on Pensions, to whom was referred the memorial of Ann E. Boyle, widow of the late Commodore Junius J. Boyle, praying to be placed on the naval pension-roll, submit the following report:

From the evidence submitted to the committee, it appears that the late Commodore Junius J. Boyle entered the United States Navy in the year 1823, and remained in the service forty-six years and upward; that his services were varied and important. That while in the performance of his duty he received severe injuries on his head, apparently not dangerous at the time, but resulting in disease of the scalp, and eventually of the skull, and ending in his death.

The first of these injuries is only established by his own statements repeatedly made to his daughter, and to various surgeons belonging to civil life, as well as to others in the Navy. He uniformly complained of a wound on his head, received while in command of the United States schooner Bonita, during the Mexican war. His second wound or injury received in the same part, and thereby aggravating the first, occurred in the years 1853-'54, in the waters of Japan, during Commodore Perry's expedition, and while Commodore (then Lieutenant) Boyle was in command of the store-ship Southampton.

The infliction of this last injury, and its serious and painful consequences, are well proven by an eye-witness, who was serving on board of the vessel at the time, and who saw much of the commodore for the next three or four years.

The commodore died in the naval hospital at Norfolk, Virginia, in 1870, as appears by statements of his term of service. He was on the retired list, and was sent to the hospital by order of the Chief of the Bureau of Medicine and Surgery, at the suggestion of Surgeon Maxwell, and by order of the Secretary of the Navy. His disease was found to be ulceration on top of the head, his general health being good.

He there informed the medical inspector of the origin of the disease, making a similar statement to him as the one testified to by his daughter as having been made to her.

He was attended in his last illness by Passed Assistant Surgeon M. C. Drennan, who, in a letter to Mrs. Boyle, dated December 15, 1871, says his death was caused by paralysis, the result of caries of the skull, and the latter occasioned by some injury to the head.

The surgeon held frequent conversations with Commodore Boyle as to the origin of his wounds, and, as more circumstantially stated by him in those conversations, the particulars of the injury were fully set forth and detailed.

He appears to have been advised by some civil practitioners of surgery to submit to the operation of trepanning, but by naval surgeons not to undergo the dangerous experiment.

Though the commodore lived some sixteen years after the date of his last injury, it appears that he was much of that time a great sufferer.

The committee, believing from the evidence that Commodore Boyle died in consequence of injuries received while in the naval service of his country, and the last when he was of the rank of lieutenant, recommend that his widow, Ann E. Boyle, be placed on the Navy pension roll, and to receive the pay of a lieutenant in the Navy from the passage of this act, and direct the introduction of a bill for that purpose.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1873.—Ordered to be printed.

Mr. BUCKINGHAM submitted the following

REPORT:

[To accompany bill H. R. 1499.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 1499) for the relief of Erastus S. Joslyn, of Washington Territory, submit the following report:

From the evidence presented to the committee, it appears that, in pursuance of an act of Congress approved September 27, 1850, entitled "An act to create the office of surveyor-general of public lands in Oregon, and to provide for the survey and make donations to settlers of the public lands," one Erastus S. Joslyn took up a tract of land, containing three hundred and twenty acres, near the mouth of the White Salmon River, and occupied the same from the spring of 1853 to the spring of 1856, when it was taken possession of by the Government, by order of Governor I. J. Stevens, superintendent of Indian affairs in Washington Territory; that the place was occupied as an Indian reservation until 1859; that during those three years Mr. Joslyn was not permitted to occupy the place, and derived no benefit from it. Several affidavits show that the place was thus occupied, and by the report of the Commissioner of Indian Affairs for the years 1857, 1858, and 1859, it appears that the land, or a part of that claimed by Joslyn, was occupied for Indian purposes.

There are also affidavits which support the statement of Joslyn in relation to the damage to fences and the fruit orchard, as well as the value of the rent, none of which estimate the damage at less than one thousand dollars nor the rent as being worth less than three thousand dollars.

Your committee, therefore, recommend the passage of the bill without amendments.

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JOURNAL
OF THE
ROYAL ANTHROPOLOGICAL INSTITUTE
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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 14, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill S. 1592.]

The Committee on Claims, to whom was referred the memorial of Hiram Prather, of North Vernon, Indiana, late lieutenant-colonel of the Sixth Regiment Indiana Volunteer Infantry, submit the following report:

The evidence shows that the Sixth Regiment Indiana Volunteer Infantry was organized in April, 1861, for three months' service under the call of the President of the United States, dated April 15, 1861; that said Hiram Prather was duly commissioned by the governor of the State of Indiana lieutenant-colonel of said regiment, and served in that capacity in the field until the 2d day of August, in that year, when the term of service of the regiment expired. They further find that permission had, in the mean time, been obtained by Governor Morton, from the President and Secretary of War, to re-organize all of the three months' regiments (including the Sixth) for a term of three years, with the understanding that those of the original field-officers who would engage in recruiting and re-organizing their regiments should continue to hold their former rank under their original commissions.

They find that the said Sixth Regiment was recruited and re-organized under the direction and principally through the efforts of the former colonel and Lieutenant-Colonel Prather, and was mustered into the service on the 20th September, 1861, except one company, which was mustered in a few days later; that Lieutenant-Colonel Prather was re-mustered on his original commission September 20, 1861, for a term of three years; that he served as such lieutenant-colonel in the field until the 19th day of May, 1862, when his resignation was accepted and he was honorably discharged; that his services in recruiting and re-organizing the regiment for the three years' service were faithfully rendered, employing all his time from the 2d day of August, 1861, to the 20th day of September following, for which he has received no compensation whatever. They find that it was the understanding of the governor and Colonel Prather that the United States would allow and pay the latter the regular compensation of his rank for the time employed and services rendered in recruiting and re-organizing said regiment.

The committee thereupon report herewith the accompanying bill for the relief of Lieutenant-Colonel Prather.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 14, 1873.—Ordered to be printed.

Mr. DAVIS submitted the following

REPORT:

[To accompany bill H. R. 2887.]

The Committee on Claims, to whom was referred the bill (H. R. 2887) for relief of William Johnston, of Ripley County, Indiana, submit the following report:

In July, 1863, soldiers in the command of General Hobson, in pursuit of John Morgan's raiders, took from a field in Ripley County, Indiana, a mare belonging to William Johnston, who was in the Federal Army and from home. The soldier who took the mare left a horse and rode the mare.

Proof is clear as to the ownership and exchange, and that the horse was afterward taken away by some one in the Government service. The value of the mare is shown to be \$130.

No receipt or voucher was given, and Johnston says he has in no way been paid. (Letter of the Secretary of War, dated February 8, 1873, made part of this.) The committee recommend the passage of the House bill without amendment.

The Secretary of War has the honor to return to the Committee on Claims of the United States Senate, the bill H. R. 2887 for the relief of W. Johnston, for one horse valued at one hundred and thirty dollars, (\$130,) taken by United States troops during the Morgan raid through Ohio and Indiana, and other papers connected with the claim, inclosed in letter of said committee of the 18th ultimo, and to report for the information of the committee, that the claim has never been presented to this Department for consideration, nor has the Department any information in regard to it further than is contained in the accompanying papers.

The returns of quartermasters of General Hobson's command furnish little information in regard to the impressment of animals which, in the nature of the case, a forced march, pursuing an enemy a long distance, was hurried. Many animals gave out and were replaced by impressments by officers who gave receipts, and many by soldiers who remounted themselves upon horses taken wherever they found them, without waiting to give receipts or reporting the fact to officers who could or would do so.

The records of the Adjutant-General's Office show that the claimant, William Johnston, was a sergeant of Company M, Third Indiana Cavalry, and present for duty during the months of July and August, 1863.

From a careful examination of the inclosed testimony it appears proper that the claim should be paid.

The claim could, however, be considered in the Quartermaster-General's Office, and referred to the Third Auditor of the Treasury, with recommendation for settlement, under the act approved July 4, 1864, (ch. 240, 1st sess. 38th Cong.,) and the joint resolution approved June 18, 1866, (No. 50, 1st sess. 39th Cong.)

WM. W. BELKNAP,
Secretary of War.

WAR DEPARTMENT, February 8, 1873.

IN THE SENATE OF THE UNITED STATES

REPORT

OF THE

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OF THE

The Committee on the Judiciary, in response to a resolution of the Senate, passed July 11, 1893, relating to the case of William Johnston, a citizen of the United States, who was arrested in London, England, and held in custody by the British authorities.

In July, 1893, William Johnston, a citizen of the United States, was arrested in London, England, and held in custody by the British authorities. The British authorities claimed that Johnston was a spy, and that he was in possession of certain documents which were of great importance to the British Government.

It is claimed that Johnston was arrested on the basis of information received from a confidential source of the British Government. The British authorities claimed that Johnston was a spy, and that he was in possession of certain documents which were of great importance to the British Government.

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 14, 1873.—Ordered to be printed.

Mr. SHERMAN submitted the following

REPORT:

[To accompany bill H. R. 3825.]

The Committee on Finance, to whom was referred the bill H. R. 3825, have examined the same, together with the petitions and other papers on file in support of and in opposition to that bill, and beg leave to report:

That in the opinion of your committee it is not expedient to pass this bill. The general reasons that lead your committee to this conclusion are stated in the following letter of the Commissioner of Internal Revenue, to wit:

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
Washington, February 8, 1873.

SIR: I would most respectfully beg leave to call the attention of your honorable committee to a few facts connected with that clause in the act of June 6, 1872, that relates to the sale of leaf-tobacco, and more especially to that part of said clause imposing a special tax on retail dealers who sell for direct consumption, a contingent tax also on their annual sales, not excepting farmers or planters when they sell leaf-tobacco at retail directly to consumers; also to state very briefly my reasons why this provision of law should not at the present time be repealed or amended. And

1. I have to say that no process of manufacture works a radical change in tobacco; and it is entirely a matter of education or taste, and sometimes only of convenience, with the consumer whether he shall use raw or leaf tobacco, or use manufactured tobacco.

2. The tax on manufactured tobacco, ranging from 75 to 100 per cent. of the original cost of the tobacco, is a weighty motive, inciting the consumer to make choice of that tobacco which pays no tax or pays the least amount.

3. Under the tax-law prior to June last, the consumption of raw or leaf tobacco was increasing at an alarming rate, and good judges estimated the quantity annually consumed without the payment of any tax, variously from ten to twenty millions of pounds.

4. The manufacturers of tobacco throughout the country who honestly paid to the Government their taxes, whatever might be their opinions upon other points connected with the tobacco-law, were unanimous in their appeals to this office, and in their petitions to Congress, praying for protection against the unjust and unequal, and even, to them, ruinous competition, as between their taxed products and the untaxed leaf-tobacco sold by farmers, planters, hucksters, gardeners, and others, with no tax placed upon it.

5. The present tobacco-law is believed to be the best which has as yet been enacted in this country; and the manufacturers of the country, so far as I have been able to learn, even including those who were most strenuously opposed to the adoption of a uniform rate of tax, are satisfied with the operation of the present law.

6. Under the operation of the law of June 6, 1872, although the average rate of tax on manufactured tobacco was reduced 25 per cent., for the first six months of the present fiscal year the collections on manufactured tobacco have fallen off only the inconsiderable sum of \$48,000 from the collections made during the corresponding time of the last fiscal year. This favorable result I attribute very largely to the prohibition of the sale of raw or leaf tobacco directly to consumers, and the substitution of manufactured tax-paid tobacco instead of the raw leaf.

7. Petitions, numerously signed, were received early in the season at this Office, from manufacturers and dealers in various parts of the country, and representing the leading manufacturers of the country, expressing their satisfaction with the present law and praying that there may be no changes made therein this session of Congress. Some of these petitions please find inclosed.

8. I am in daily receipt of telegrams and letters from men of standing and influence in the trade, expressing great alarm in relation to the recent action of the House of Representatives, by which they propose to allow growers of tobacco to sell at retail, and for immediate consumption, without paying any tax, leaf-tobacco to the amount of \$100 annually, and asking me to use all proper influence to avert from their business the ruinous effect of a legalized sale of untaxed leaf-tobacco.

9. As the Government could have no control over farmers, planters, hucksters, gardeners, &c., to regulate their retail sales, or any means of knowing when they had reached the limit of \$100, or of restricting them within such a limit, I regard the act passed by the House as opening up all the evils heretofore complained of by the manufacturers, and as being sure to result in greatly diminished collections of revenue from that source.

10. No class of consumers have petitioned Congress to allow them to purchase and consume tobacco free of all tax, and there is no reason which could be justly urged for exemption of consumers residing within the districts where tobacco is grown which will not apply with equal force to all consumers; and any discrimination in favor of one class of consumers over another, if not in violation of the constitutional rule of uniformity, would be unjust and unequal.

11. Knowing the facts herein represented, and firmly believing that the proposed change of the present law will be greatly detrimental to the revenue, and create dissatisfaction among the manufacturers and licensed dealers of the country, I would respectfully but most earnestly protest against the proposed change.

Inclosed please find copies of letters received on this subject, with the petitions before alluded to.

Yours, respectfully,

J. W. DOUGLASS,
Commissioner.

HON. JOHN SHERMAN,
Chairman of the Finance Committee,
United States Senate, Washington, D. C.

In reply to this letter your committee is pressed with the argument of inconvenience to the farmer who produces leaf-tobacco. By the law, as it now is, he does not pay a license, but may sell tobacco of his own production, or tobacco received by him as rent from tenants who have produced the same on his land, to those dealers who have paid a special tax. He cannot retail it to others for consumption. This regulation has been found by experience indispensable to the collection of the tax on tobacco. Without it the production of tobacco for sale at retail for consumption might be, and would be, carried on in a majority of the States of the Union, and would greatly reduce the revenue from tobacco. It would be unjust to the manufacturer, who, by a slight change in the form of the tobacco, is required to pay a tax of from 100 to 200 per cent. It is easy to perceive that so great a discrimination in favor of the producer of tobacco would largely encourage the use of it in the form of leaf-tobacco, and to that extent would diminish the revenue. When the tax applies equally to all forms of tobacco sold for consumption it operates fairly; while a discrimination in favor of the consumption of tobacco not taxed, instead of that heavily taxed, is unjust to the manufacturer and dealer. Your committee, therefore, recommend that the bill be indefinitely postponed.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 14, 1873.—Ordered to be printed.

Mr. PRATT, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of Catherine Harris, praying to be placed on the pension-roll, submit the following report:

Mathias Harris, the husband of the petitioner, was elected by post-council of administration under the act of July 5, 1838, post-chaplain, United States Army, June 26, 1849. He was discharged February 3, 1864, and was re-instated October 10, in that year. He was appointed by the President post-chaplain, United States Army, April 3, 1867, and retired from active service July 20 in the same year. He died July 10, 1871, at his residence near Fort Foote, Prince George County, Maryland, of apoplexy.

Thus it will be seen that his active service continued from April 26, 1867, when he accepted the appointment, to July 10, in that year.

These facts are established by the records of the War Department.

The claim of the petitioner is that the chaplain died of disease contracted while he was in the service of the United States in the line of duty.

His widow made application for a pension on this theory, but her claim was rejected by the Commissioner of Pensions. She appealed from his decision to the Secretary of the Interior. On the 28th of December, 1872, the Secretary affirmed the decision, saying:

After a careful examination of the medical evidence in the case, I am unable to conclude that the cause of the death of the claimant's husband originated in the service of the United States. I am constrained to say that, under existing laws, her claim cannot be justly allowed.

Mrs. Harris now prosecutes her appeal to Congress. If this appeal is taken on any vain supposition that committees who must sit in judgment upon her case are better qualified, by nature or education, to judge of the force of the testimony relating to the cause of her husband's death than the medical experts in the Department of the Interior, we feel bound in honor and conscience to disclaim the soft impeachment and make humble confession that we possess no such qualifications.

We have said Mr. Harris was retired from active service in July, 1867. He was probably so retired in consequence of the report of the surgeon of the post, who, under date of June 29, 1867, certified that Mr. Harris

had had frequent attacks of malarial fever, which had greatly impaired his general health. He added :

In my opinion he is physically disqualified to endure the fatigue and exposure incidental to a journey to the Territory of Utah. Superadded to Mr. Harris's impaired health, he is in the sixty-ninth year of his age and has been in the United States service eighteen years.

He died more than four years after this certificate, and, of course, in the seventy-third year of his age.

People *do* die of old age. When a man passes three-score years and ten he is considered a tenant at sufferance. Men and women *do* drop off at that age like leaves in autumn, and we are in the habit of saying, figuratively, that they have been gathered home like ripe shocks, and blessing God they were spared to loving friends so long. We do not murmur at the dispensations of Providence as when youth is cut off in its promise.

There was, therefore, nothing surprising that Mr. Harris should die at that age, and would not have been if, instead of living and dying in Maryland, he had lived and died in the most healthful spot of our mountain regions, where malaria never taints the purity of the air.

Nor can it be imagined that the religious exercises of Mr. Harris, as post-chaplain, were specially conducive to diseases of the body.

If it be said that Fort Foote is situate in a malarious region, it may be replied that it is not more so than any point on the Potomac; and further, that with free choice to go to the healthful region about the Great Salt Lake, where, in addition to his clerical duties in Camp Douglass, he could have battled with Satan, in the form of Mormonism, he chose to abide on the banks of the classic river, within sight almost of the nation's Capitol and surrounded with all the blessings of our highest forms of civilization.

There is but one witness in the case, and that is the surgeon before quoted. He certified on November 21, 1871, that Chaplain Harris died July 10, 1871, aged seventy-three years, after being sick three days—disease, cerebral apoplexy; has known the officer several years, and in his opinion a diseased state of the blood-vessels, with a tendency to cerebral troubles, had existed for some time—certainly prior to his retirement from the service. For many years this officer had been on duty at malarial posts, where he frequently suffered from attacks of fever. On two former occasions, while in active service, once at Fort Washington, and once at Fort Foote, the officer fell suddenly upon the floor, remaining in an unconscious state for some time, which attacks this witness regards as apoplectic strokes.

This is the whole medical testimony in the case, and we are asked to overrule the opinions of the Commissioner and Secretary upon its effect. These opinions deserve all the more weight from the influence brought to bear upon those officers by other officials, who sought to make the case a special one. One writes to the Commissioner :

I would respectfully request that this case be made *special*, as I know Mrs. Harris is in great want.

One of the medical experts in the Pension-Office says of this case :

It appears in evidence that Chaplain Harris died of cerebral apoplexy; further than that I cannot say; whether the apoplexy was caused by the performance of his duties, I cannot say. It is a disease or condition to which all classes of life, so far as I believe, are about equally subject. It is highly probable that Chaplain Harris would have so died had he never been in the service.

A reviewer in the Pension-Office begins his summary of the case thus:

This is a representative claim of many filed in this Office by the heirs of "old Army officers."

It seems to the committee that the ruling of Secretary Browning, in rejecting the claim of Lena Willetts, is strictly applicable in this case:

Length of service and presumption that exposure therein induced disability alleged, is not sufficient basis for claim of pension without positive proof that the disability which caused death originated in the service and line of duty.

Approaching this case with the same desire that seems to have possessed all who have had anything to do with it, to accord to Mrs. Harris a pension if the law would allow it, we are constrained to say that our judgment accords with those who have twice decided adversely. We therefore recommend that the petition be disallowed and we discharged from further consideration of the case.

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 15, 1873.—Ordered to be printed.

Mr. DAVIS submitted the following

REPORT:

[To accompany bill S. 1375.]

The Committee on Claims, to whom was referred the petition of Eva, Etta, Henry, and Guy Carleton, heirs of General James H. Carleton, deceased, late of the United States Army, having considered the same, beg leave to submit the following report:

It appears that General James H. Carleton, in the year 1854, purchased, for the use and benefit of his minor children, certain property in and near to the town of Albuquerque, in the Territory of New Mexico.

This property consisted of some twelve buildings, corrals, and other improvements, and in the year 1862 was rented to, and was occupied by, the United States troops for various purposes, as shops, stables, store-houses, hospitals, &c., and was so continued under rent to the Quartermaster's Department up to March 2, 1862. At this date it is shown that, owing to the exigencies of the war, (the late war of the rebellion,) it became necessary to destroy the said improvements by fire, to prevent the valuable property stored therein falling into the hands of the enemy.

The authority for this destruction of petitioner's property was an order issued by General Canby, commanding Department of New Mexico, and is as follows:

HEADQUARTERS DEPARTMENT NEW MEXICO,
Fort Craig, New Mexico, February 21, 1862.

SIR: After a severe battle to-day, the enemy has succeeded in effecting a lodgment on the river above this place, and will probably succeed in cutting off our communications with the upper country. You will hold yourself prepared to remove or destroy all public property, and particularly provisions, so that nothing that is useful may fall into the hands of the enemy.

All trains and detachments now on the way should be turned back.

Very respectfully, your obedient servant,

ED. R. S. CANBY,
Colonel Nineteenth Infantry, Commanding Department.

Commanding Officers ALBUQUERQUE, SANTA FÉ, FORT LYON.

That this order was carried into effect, so far as concerns the destruc-

tion of claimant's property, is set forth in the following certificate of Captain Enos:

I certify that the houses and buildings belonging to Eva, Etta, Henry, and Guy Carleton, situated in the town of Albuquerque, New Mexico, were, by my order, destroyed by fire on 2d day of March, 1862, to prevent the public property stored therein from falling into the hands of the rebel enemy.

H. M. ENOS,
Captain and Assistant Quartermaster, United States Army.

SANTA FÉ, NEW MEXICO, *September 27, 1862.*

To ascertain the amount of damage sustained by claimants in the destruction of their property in the manner set forth by Captain Enos's certificate, a board of survey convened at Albuquerque, New Mexico, on the 10th of September, 1862, in pursuance of the following order, viz:

[Special Orders No. 159.]

HEADQUARTERS DEPARTMENT OF NEW MEXICO,
Santa Fé, New Mexico, September 3, 1862.

A board of survey is hereby appointed to meet at Albuquerque, New Mexico, on Wednesday, the 10th of September, 1862, or as soon thereafter as practicable, to assess the damage upon the buildings which were rented and occupied up to the 2d of March, 1862, when a portion of those buildings was destroyed.

Detail for the board:

Colonel C. Carson, First New Mexican Volunteers.

Captain H. R. Selden, Fifth United States Infantry.

First Lieutenant A. L. Anderson, Fifth United States Infantry.

By order of Brigadier-General E. R. S. Canby:

GURDEN CHAPIN,
Captain Seventh Infantry, Acting Assistant Adjutant-General.

The following is an extract from the proceedings of said board:

ALBUQUERQUE, NEW MEXICO,
September 12, 1862.

The board met pursuant to adjournment; present, all the members.

The board then proceeded to examine into the condition of, and assess the damages upon, twelve houses and seven corrals, the property of Eva, Etta, Henry, and Guy Carleton, which houses and corrals were rented by the Quartermaster's Department, United States Army, as "shops, stables, corrals, clothing, and quartermaster's store-houses," and as a "hospital," and were occupied until the 2d of March, 1862.

The board, after careful examination and accurate measurement, finds the nature and money value of the damages to the said property as follows, viz:

Three of the said houses were entirely destroyed by fire, by order of Captain H. M. Enos, assistant quartermaster, United States Army, on the 2d of March, 1862. The estimate of their value, together with that of the other damages sustained by said property, is included in the following:

For fifty-nine doors and gates destroyed	\$837 00
For fifty-seven windows destroyed	923 00
For 25,047 feet of lumber, at \$50 per 1,000 feet	1,252 35
For 714 roof-timbers, at \$3 each	2,142 00
For 51,528 adobes, at \$12 per 1,000	618 00
For laying up walls	810 33
For carpenter's work, laying floors, &c	250 32
For nails and locks, and grating to windows	350 00
For plastering and finishing walls	192 00
For removing ruins	125 00
For contingent expenses	100 00
 Total damages to twelve houses and seven corrals	 7,600 00

The board is further of the opinion that the aforesaid damages were consequent upon

the abandonment of the aforesaid buildings by the United States troops on the 2d of March, 1862, and their subsequent occupation by the enemy and by lawless citizens.

C. CARSON,

Colonel First New Mexico Volunteers.

H. R. SELDEN,

Captain Fifth Infantry.

A. L. ANDERSON,

First Lieutenant and Adjutant Fifth Infantry.

The proceedings of the board approved.

ED. R. S. CANBY.

HEADQUARTERS DEPARTMENT NEW MEXICO,
September 18, 1862.

The award of this military board, convened by General Canby's order, to ascertain the damage to claimant's property, seems to have been rendered after careful consideration, giving in detail the various items of loss and their estimated value.

It appears that General Carleton, in behalf of claimants, applied to the Thirty-seventh Congress for relief, and his memorial was referred to the Committee on Military Affairs in the Senate. Mr. Nesmith, then a member of that committee, on the 21st February, 1863, submitted a favorable report, concluding in these words, that "the committee, fully satisfied that the Government, by its proper officers, destroyed this rented property for prudential reasons, report a bill for relief," &c., the amount providing relief in said bill being \$7,600. This bill, for want of time it seems, failed to pass.

It further appears that on January 26, 1867, and while General Carleton was yet living, a claim was filed in the Office of the Quartermaster-General for compensation for the destruction of this same property, through one John L. Watts, esq. On January 29, 1867, the Quartermaster-General returned the letter of Mr. Watts on the subject to the War Department, with report: "That this is a case in which the Quartermaster's Department cannot afford relief, as it is a claim for the destruction of property as a military necessity. It is respectfully suggested that the applicant be referred to Congress."

The report was returned February 7, 1867, "*approved*," and Mr. Watts was advised of the action.

It also further appears that on June 3, 1871, Frank G. Newlands, esq., of San Francisco, California, refiled the case in behalf of claimants, and on July 20, 1871, the case was returned to Mr. Newlands, as requested, with the information embraced in the report of the Quartermaster-General of January 29, 1867, already quoted.

As relief has been denied claimants, on application to the Quartermaster's Department, on the ground that the claim was for property destroyed as a military necessity, a member of this committee again brought the case to the attention of the Quartermaster-General, with a request for the opinion of that officer as to the justice of the claim. The case submitted was returned, after being reviewed, with the Quartermaster-General's indorsement, "That Congress alone, in my opinion, has power to grant relief. It appears to be a case in which relief should be given."

From all the evidence in the case it seems clear to the committee that the claimants are entitled to relief; that the damage sustained by the destruction of their property was occasioned by the military authorities of the United States; that the sum of \$7,600 would be but a fair and just compensation to the claimants for the loss of their property, and

while they would recommend that this amount should be paid to the claimants, they do not deem it expedient to recommend that interest should be paid upon that sum, to be computed from the date of the award of the military board, as provided in the accompanying bill.

They therefore report back the bill with an amendment.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 15, 1873.—Ordered to be printed.

Mr. MACHEN submitted the following

REPORT:

[To accompany bill H. R. 3855.]

The Committee on Claims, to whom this bill was referred, after a full examination of the case, concur in the report of the House Committee of Claims, and recommend the passage of the bill, and ask that the report of the House committee be printed for the use of the Senate.

Forty-second Congress, Third session. House of Representatives.—Report No. 38. January 18, 1873.—Ordered to be printed and recommitted to the Committee of Claims.

Mr. BUCKLEY, from the Committee of Claims, made the following report: [To accompany bill H. R. 1312.]

The Committee of Claims, to whom was referred the bill (H. R. 1312) for the relief of Josiah Morris, having had the same under consideration, ask leave to make the following report:

By an act of Congress of August 6, 1861, property used in aid of the rebellion was made the lawful subject of prize and capture wherever found, and it was made the duty of the President of the United States to cause the same to be seized, confiscated, and condemned. And a subsequent act of 17th of July, 1862, authorized the seizure and confiscation of the property of certain persons engaged in the rebellion.

These statutes being in force, an information was exhibited in the United States district court for the middle district of Alabama, alleging, in substance, that certain bales of cotton had become the property of the United States through the surrender of the confederate general, Richard Taylor, on the 5th of May, 1865, or otherwise had become liable to seizure and condemnation under the act of Congress before mentioned; that this cotton was stored until some day in April, not specified, in the warehouse of John F. Johnson; and on some day, not specified, in the year 1865, was removed by him and Josiah Morris from the warehouse and sold; and that the said Morris and Johnson had appropriated the proceeds to their own use. The information did not allege that the cotton was at the time, or ever had been, in any place where it could be seized, or that any proceeds of the sale existed in any such form as to be capable of seizure.

In the month of December, 1866, a personal judgment was rendered against Josiah Morris, in a suit pending in the district court of the United States for the middle district of Alabama, for the sum of \$31,407, in a suit entitled *United States vs. One hundred and twenty bales of cotton, Josiah Morris, and J. F. Johnson*.

An execution to collect said personal judgment was placed in the hands of John Hardy, United States marshal for said district, and payment demanded.

The defendant, Josiah Morris, being desirous of appealing to the Supreme Court of the United States from said decision, and by the absence of the district judge having been prevented from appealing within the time requisite to give the appeal or writ of error the force of a supersedeas, paid into the hands of said John Hardy, United States marshal, the sum of thirty-one thousand six hundred and eighty-nine dollars and fifty cents, and on the same day gave the necessary bond for costs, &c., required to perfect his appeal, which was duly perfected; and the case was heard on appeal before the Supreme Court of the United States, which court reversed the decision of the district court, and ordered a restitution of said moneys to Josiah Morris.—(See 7 Wallace, 578.)

It further appears that said John Hardy, as such marshal, as aforesaid, deposited, 26th day of March, 1867, of said sum of money, thus received of Josiah Morris, the

sum of \$30,509 in the First National Bank of Selma, a bank that had been designated by the Secretary of the Treasury as a depository of public moneys for the State of Alabama, notice of which selection had been officially given to said Hardy in these words:

"DEPARTMENT OF THE INTERIOR,
"Washington, January 23, 1866.

"SIR: You are hereby informed that the Secretary of the Treasury, on the 19th instant, notified this Department that, pursuant to the authority contained in the 54th section of the act 'to provide a national currency, secured by the pledge of United States stock, and to provide for the circulation and redemption thereof,' approved February 26, 1863, he had employed, as depositories of public moneys, except receipts from customs, the following banks in your State, viz, the First National Bank of Selma.

"You are requested to acknowledge the receipt of this notice.

"I am, sir, very respectfully, your obedient servant,

"W. T. OTTO,
"Assistant Secretary of the Interior.

"JOHN HARDY,

"United States Marshal, Middle District Alabama."

And further, it appears from testimony taken by special master in the case, and reported to the court, that no part of the said sum of thirty thousand five hundred and nine dollars, so deposited as aforesaid by the said Hardy, was ever withdrawn from the said First National Bank of Selma, but that the whole thereof was entered as a credit to the said Hardy upon the books of the said bank, and remained to his credit as such marshal upon the books of said bank up to and at the time of the failure of said bank in April, 1867, and that soon thereafter said bank as a corporation was dissolved by a decree of the district court of the United States for the middle district of Alabama, and its books, money, and assets placed in the hands of Cornelius Cadle, the receiver appointed by the Comptroller of the Currency of the United States, and that from time to time the said Cadle has paid over to the Treasury of the United States the moneys received by him.

And further, it appears that on the 20th day of May, 1870, a peremptory *mandamus* was issued to the district judge of the United States for the middle district of Alabama, and in execution thereof it was ordered and decreed in the following language, to wit, (see 9 Wallace, 605:)

"In virtue of the foregoing decree, and the facts therein recited, it is hereby certified by the honorable the district court of the United States for the middle district of Alabama, that the United States of America appears to be indebted to Josiah Morris in the sum of thirty thousand five hundred and nine dollars, being moneys deposited by the marshal of this court in the First National Bank of Selma, then being a public depository of moneys collected for the United States, (except collections from customs,) and which moneys have been by this court, under the mandate of the Supreme Court of the United States, ordered to be restored to the said Josiah Morris, and this, with a copy of the order in this cause, be furnished, after being in this court under the seal of this court, to the said Josiah Morris, as a certificate of the said indebtedness of the United States to said Morris.

"June 8, 1870.

"RICHARD BUSTEED,
"Judge of the District Court of the United States for the State of Alabama."

The circumstances of the marshal's deposit have been carefully inquired into, and the question arises, Is he exonerated? The money in question seems to have been deposited in the National Bank of Selma, pursuant to instructions from the proper authority.

Whenever the marshal collects money under execution in his hands, which at the time is *not void*, but valid, he receives it for the plaintiff in the execution, and the plaintiff's execution is thereby satisfied *pro tanto*; and this is so, whether the plaintiff ever *actually* receives any money or not. The law makes the money so collected the money of the plaintiff, and invests him with a perfect title to it, against the marshal, the defendant in the execution, and all others who do not show a superior lien upon it.

The title which the plaintiff in execution acquires by such collection may be terminated by a subsequent reversal of the judgment under which the execution is issued. And when the title is thus terminated, the defendant in the execution thereby acquires a right to recover back the money which has been so collected from him. But this right to recover back the money is a right, not against the marshal, but against the plaintiff in the execution. In such case the marshal is not liable to the defendant in execution, and cannot be made liable to him. The marshal's liability is to the plaintiff

only. The marshal in collecting the money had done only what the process of the law (the execution) had commanded him to do; and for this collection the law made him liable to the plaintiff only, who was instantly clothed by the law with the right to demand and receive from the marshal the money so collected. The law never makes such officers liable to both plaintiff and defendant for the performance of a lawful official act. This liability is *to the plaintiff only*, for the money so collected. And as the law clothes the plaintiff with a perfect right to the money so collected by the marshal, it will not permit him, when afterward his judgment has been reversed, and he is sued by the defendant to recover back the money, to defeat the action by pleading or proving that he never *actually* obtained the money from the marshal. The law will not permit the defendant to recover back the money from the marshal, because it had already made the marshal liable for it to the plaintiff. Nor will it permit the plaintiff to defeat the defendant's action to recover back the money from him, by showing that the money never *actually* came to his hands.

It was the plaintiff's execution that forced the money from the defendant; it was the plaintiff's perfect right to obtain the money from the marshal as soon as he collected it. And as between the plaintiff and defendant, the law treats the money so collected as being in the plaintiff's hands, and will not allow him to show the contrary.

These plain legal principles apply universally between private individuals. The only practical question is, whether as great a Government as that of the United States will so abuse its mere immunity from being sued as a private individual, as to secure to itself immunity from unquestioned principles of law, and thus despoil a citizen of his money. The answer to this question is found in the letter of the venerated statesman, William H. Seward, as Secretary of State, (see Senate Mis. Docs. 93 and 107, 40th Congress, 2d session,) in which, under not more favoring circumstances, he recommended restitution to foreigners of principal and interest; and Congress carried out that honoring recommendation.

The insolvency of the National Bank of Selma, in which the United States marshal deposited the fund arising from the execution of the decree of the district court, has deprived the claimant, Morris, from this fund. This, however, furnishes no reason why the Government which seized this cotton should not make restitution to the claimant, from whose possession the Supreme Court has decided the property was illegally taken, and has directed the district court to cause restitution to be made to the appellants of whatever they have been compelled to pay under that decree.

The committee are of the opinion that the claimant is equitably entitled to the relief prayed for, and for that purpose report the accompanying bill as a substitute for H. R. 1312, and recommend the passage of the same.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 15, 1873.—Ordered to be printed.

Mr. BUCKINGHAM submitted the following

REPORT:

[To accompany bill S. 1246.]

The Committee on Indian Affairs, to whom was referred the petition of Siloma Dick, widow of Philip H. Dick, praying to be re-imbursed for losses sustained in consequence of the depredations of the Sioux Indians in Minnesota, in 1862, with the accompanying papers, report:

That at the time of the Indian outbreak in 1862, the petitioner, with her husband and family, lived in Mananah, Meeker County, Minnesota, and was possessed of certain property enumerated in a schedule attached to her petition. On account of said outbreak the family was obliged to leave their home and property and remove to Forest City, and in attempting to return and save the property, petitioner's husband was killed by the Sioux Indians. Petitioner was then aided by friends to go to the State of New York, whence she did not return until 1865. Not reading or writing English, she heard nothing of the appointment of commissioners by the Government to audit and settle claims on account of such depredations, and was therefore unable to present such claims. With regard to the dates at which the several events occurred, the affidavits are not in harmony with each other nor with the facts, but the witnesses agree as to the loss of the property and its ownership. These facts are attested by various witnesses, the immediate neighbors of the petitioner, whose respectability is vouched for by the principal county officers of Meeker County, the receiver and register of the United States land-office, and a member of the Minnesota legislature.

The amount claimed as the value of the articles lost, as set forth in the schedule and additional affidavit of petitioner, is \$1,927.40, on which interest is also claimed for ten years at 7 per cent. While the committee are satisfied with the proof of the main facts in the case, they regard the amount as excessive. They have therefore made a reduction of the amount to \$1,095.37, and recommend the passage of the accompanying bill.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 15, 1873.—Ordered to be printed.

REPORT

Of the Committee of Claims of the House of Representatives, to accompany bill H R. 1242.

The committee have had before them the case of William Ivers, a citizen of the Territory of New Mexico, who claims to be paid by the Government \$1,500 for the destruction of his building, rented by him to the Quartermaster's Department as a store-house for the public stores of the United States Army at Santa Fé, New Mexico, in 1862, and that it was burned under the orders of the chief quartermaster to prevent the stores and supplies falling into possession of the confederate forces that captured that city.

It appears in proof by the report of a board of officers regularly constituted and convened by the orders of General J. H. Carleton, commanding the Department of New Mexico, properly authenticated, and other testimony, that said Ivers owned and rented to the Quartermaster's Department, at the monthly rent of \$20, in which commissary stores and supplies were stored, and that the building was burned, for the purpose of such supplies, and preventing their being used by the enemy's troops.

A number of witnesses were examined under oath by the board, and they all testified in effect that \$1,500 would not repair the damage to the building caused by the fire and destruction of the stores. The board, however, recommended the payment to said Ivers by the Government the sum of \$1,500 only. This recommendation, and the proceedings of the board, were approved by the commanding general, and said Ivers laid his claim before the proper officers of the accounting Department for payment.

The claim, however, has not been paid, as no law of Congress has conferred on the accounting Departments authority to pay claims of this nature.

This claim appears to be just, and the proof clear and satisfactory. The building of the claimant was in possession of the Government, and was burned to destroy public stores, as a necessity, to keep them from the possession of the confederate troops.

The committee therefore recommend the passage of the accompanying bill.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 17, 1873.—Ordered to be printed.

Mr. WRIGHT submitted the following

REPORT:

[To accompany bill H. R. 3860.]

The Committee on Claims, to whom was referred the bill (H. R. 3860) for the relief of William Rutherford, of Washington, submit the following report:

The petition upon which, with the accompanying testimony, this bill is based, makes this case.

Petitioner for sixteen years was in the military service of the United States, and was honorably discharged in 1866. On the 16th of December, 1863, he held the position of ordnance sergeant and was stationed at Yorktown, Virginia. On that night a fire occurred in the buildings occupied at that place by the Ordnance Department, and these, with the stores, were destroyed, including the quarters occupied by him. By this fire he lost, as he avers, divers articles of personal property, valued at \$61.45, and money to the amount of \$600; his loss, as he says, being caused, in a great measure, by his giving personal attention and efforts to the saving of the Government stores and the protection of Government property during said fire. He alleges he is now poor, and prays Congress to re-imburse him for his loss sustained while in the service of a country for which he fought and which he served many years.

The petitioner is well sustained as a most faithful soldier and citizen; and while the value of the personal effects thus lost is reasonably well established, so much cannot be said as to the money. One witness testifies to the fire, enumerates the articles lost and their value, and as to the money says, "It was reported at the time to be upward of \$600." Besides this, as to the money, we are left to petitioner's sworn statement, and the abundant evidence as to his good character as a soldier and truthfulness as a man. It is abundantly shown that he exerted himself most heroically at the fire to save the Government property, taking no heed or care of himself or his own means, until all further effort in the line of his duty as a soldier was found to be unavailing.

And this is the case which this bill is intended to relieve.

It will be observed that the property lost did not belong to the Government which had been intrusted to petitioner. It was his individual property, lost by a casualty which swept away a large amount of Government stores and valuable buildings. The Government was not at fault, nor was it the insurer, legally, or otherwise of his property. The case may be ever so hard; but if the Government is to pay for all the money and all the private property of those in its employ lost by a

common casualty—including, as in this case, money to an amount unusually large for one in petitioner's position—we say, if this is to be the rule, there would scarce be a limit to its liability or demands upon its Treasury. We recognize his heroism and his devotion to duty; and yet this devotion, if conceded to be ever so meritorious, was no more than he owed the Government he was serving; and we cannot, therefore, recognize the obligation to pay for the loss or the services, deeming it better and safer to leave all such matters to be compensated by the reflection of duty well performed than to establish a rule which would be without limit in its application or principle for its support.

We recommend that the bill be postponed indefinitely.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 17, 1873.—Ordered to be printed.

Mr. WEST submitted the following

REPORT:

[To accompany bill S. 98.]

The Committee on Military Affairs, to whom was referred the petition of John Shelton, late lieutenant Company E, Second North Carolina Mounted Infantry, praying to be allowed pay, respectfully submit the following report:

This case was considered in the Forty-first Congress, and the committee now adopt, as part of this report, the views submitted by the Senator from North Carolina, Mr. Abbott, as follows:

That the evidence submitted in this case shows that Lieutenant Shelton recruited and organized a full company of loyal North Carolinians, and was appointed first lieutenant of said company by Major-General Schofield, to date the 1st day of September, 1863, the day his company was organized. That owing to the unsettled condition of the Army in East Tennessee at that time, and the siege of Knoxville soon following, Lieutenant Shelton was unable to be mustered in. After the siege of Knoxville was raised, Lieutenant Shelton was ordered by General Schofield, with a detachment of his company, to join the Third North Carolina Mounted Infantry to make a raid into the enemy's lines for the purpose of destroying the railroad bridges between Greensborough and Salisbury, North Carolina, a distance of three hundred miles in the rebel lines, which cut off the enemy's communication with Richmond. Lieutenant Shelton remained on duty with the Third North Carolina Mounted Infantry by the orders of General Schofield, being constantly in the front in active duty. His company was full and complete, and there was no other first lieutenant in said company; and that he never received any pay for his services as said officer.

The further examination of the papers discloses that Lieutenant Shelton remonstrated against being ordered upon distant duty without being mustered into the service, and that, accompanied by the colonel of his regiment, who, under oath, substantiates this statement, he went to General Schofield and requested to be so mustered; that General Schofield replied, "It makes no difference; proceed at once on the raid and all will be right." A copy of the orders of General Schofield, requiring Lieutenant Shelton to accompany the expedition which eventually debarred him from the opportunity of being mustered into the service, being presented by the claimant, has been certified to by the War Department as genuine, under date of January 12, 1873, and such certificate accompanies this report.

The claimant having obeyed orders to his own prejudice, and it being in evidence that he rendered the service for which the accompanying bill proposes to compensate him, the committee report the same and recommend its passage.

REPORT

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The following is a summary of the report of the Committee on the subject of the proposed amendment to the Constitution of the United States, as passed by the House of Representatives on the 12th of January, 1870.

The Committee have the honor to acknowledge the receipt of the report of the Committee on the subject of the proposed amendment to the Constitution of the United States, as passed by the House of Representatives on the 12th of January, 1870. The report of the Committee is a valuable contribution to the public mind, and it is the duty of the Committee to make it known to the people.

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 17, 1873.—Ordered to be printed.

Mr. BOREMAN submitted the following

REPORT:

[To accompany bill H. R. 3513.]

The Committee on Claims, to whom was referred the bill (H. R. 3513) "for the relief of Dr. W. J. C. Duhamel," according to order, have had the same under consideration, and respectfully submit the following report:

It appears that at the commencement of the late rebellion claimant was the regularly employed physician to the jail in Washington, D. C., and so continued for a year or two thereafter; that the usual number of prisoners before that time was from forty to fifty; that on the commencement of the rebellion said jail was used as a military prison, and at times there were from two to three hundred military prisoners therein; that many of these prisoners were sick and diseased and needed the professional services of a physician, and claimant rendered them such service and administered to them from May, 1861, until the 9th of April, 1862, being about eleven months, for which he has filed an account with his petition, giving the name of each prisoner served and the time of service, for which he has never received any pay or consideration.

It also appears that afterward claimant had a written contract with the Surgeon-General of the United States Army, by which he was employed to continue his professional services to the military prisoners in said jail, and for the greater part of the time, according to the terms of said contract, received eighty dollars per month therefor. But for the eleven months' service for which claimant asks compensation in his petition, he had no contract, and, therefore, is not able to obtain pay therefor in the usual mode through the accounting and paying officers of the Treasury Department, and he has, therefore, applied to Congress for relief.

Had claimant charged per month, according to the terms of his subsequent contract with the Surgeon-General, his account would amount to \$880; but his account seems to be made out specifically as to the services rendered each prisoner, and amounts to \$738. But the said House bill, while it grants relief, has allowed him only \$600, to be in full discharge of his said professional services. Upon the facts, as they appear, the committee are of opinion that claimant is entitled to the sum allowed in said House bill, and therefore report the same back with the recommendation that it do pass.

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The following is a summary of the results of the investigation conducted by the committee on the subject of the

It appears that the committee has been very successful in its investigation, and has been able to obtain a large amount of information regarding the subject of the investigation. The results of the investigation are as follows: The committee has found that the subject of the investigation is a very important one, and that it is one which should be given the highest consideration. The committee has also found that the subject of the investigation is one which is of great interest to the public, and that it is one which should be given the highest consideration. The committee has also found that the subject of the investigation is one which is of great interest to the public, and that it is one which should be given the highest consideration.

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 17, 1873.—Ordered to be printed.

Mr. LOGAN submitted the following

R E P O R T :

[To accompany bill H. R. 1777.]

The Committee on Military Affairs, to whom was referred the petition of G. W. Standifer, submit the following report:

That it appears from the evidence accompanying the petition that claimant was employed as a telegraph operator for the United States troops in East Tennessee, from September 15, 1863, to April 1, 1864, by virtue of an agreement with Colonel R. R. Byrd, First Tennessee Infantry, who was at that time in command of the forces guarding the railroad from Knoxville to Chattanooga. The necessity for, and performance of, said service is proven by the affidavit of Colonel Byrd; also, that he promised claimant the pay of a captain, and that claimant has received no pay therefor. His claim was rejected by the Quartermaster-General because there was no official record in the case, and this decision was affirmed by the Secretary of War. Colonel Byrd testifies that at the time there was no one authorized to enter the name of claimant on the proper roll. The Committee on Military Affairs of the House decide that the agreement of Colonel Byrd, to give the pay and rank of captain, cannot be sustained; but that claimant is entitled to reasonable compensation, which they estimate at one hundred dollars per month for the time actually employed, to be paid upon proof of service rendered.

The committee therefore report the bill without amendment and recommend it be passed.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 17, 1873.—Ordered to be printed.

Mr. LOGAN submitted the following

REPORT:

[To accompany bill H. R. 1774.]

The Committee on Military Affairs, to whom was referred the petition of J. W. Holiday, having had the same under consideration, would submit the following report:

In this case J. W. Holiday applies for muster-back and pay as second lieutenant Company B, Eighth Regiment Iowa Volunteer Cavalry, from February 22, 1865, to August 13, 1865. The evidence shows he received his commission as second lieutenant February 22, 1865, but could not be mustered because Second Lieutenant Ware, who had received his commission as first lieutenant, neglected or would not be mustered in until May 1, 1865, at which time no second lieutenant could be mustered in. The petitioner was put on duty as second lieutenant upon the receipt of his commission and continued so until the end of his service.

The bill is therefore reported back by the committee without amendment with the recommendation that it be passed.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 17, 1873.—Ordered to be printed.

Mr. LOGAN submitted the following

R E P O R T :

[To accompany bill H. R. 1428.]

John L. Bullard, late captain and commissary of subsistence, United States Volunteers, in his account with the Government stands charged with an unexplained balance of \$9,690.50. He avers, and the proofs show, that this balance was paid on certificates from the office of the commissary-general of prisoners in the prescribed form, but which proved to be forgeries. It appears that Captain Bullard used the ordinary precaution in such cases, comparing signatures with the originals in his possession, with which they corresponded. These were transmitted as vouchers to the Commissary-General, and were there many months before the fraud was discovered. Efforts were then made to discover the forger. These were successful; the forger was arrested, tried, and convicted on these forged certificates. He was a clerk in the office of Captain Daniel S. Hash, commissary of subsistence volunteers, New York City, from whom he also collected some \$3,000 on like forged certificates. Propositions were made by the friends of the forger to refund if the prosecution was stopped, but to this the district attorney objected.

Among the papers is copy of a letter from General A. B. Eaton expressing his belief in the strict honesty of Captain Bullard, and that the statements made by him in regard to said payments (copy with the papers) are believed to be in all respects correct, and suggests that he apply to Congress for relief. There is also a copy of the sworn statement of Ellis W. Morton, prosecuting attorney in the cases against Gallagher, the forger, setting forth that said Gallagher was indicted and convicted in four cases for presenting forged certificates to John L. Bullard, captain and commissary of subsistence of volunteers. Copy of statement of Third Auditor, February 8, 1872, shows the balance to be \$9,690.50.

REPORT OF THE COMMISSIONER OF THE GENERAL LAND OFFICE

Presented to the House of Commons in 1875

By the Secretary of the Commission

REPORT

Presented to the House of Commons in 1875

The Commission was constituted by an Act of Parliament in 1871, and its first report was presented to the House of Commons in 1872. The Commission has since that time been engaged in a systematic survey of the land in the United Kingdom, and its progress has been reported from time to time to the House of Commons. The Commission has now completed its survey of the land in the United Kingdom, and its final report is presented to the House of Commons in 1875. The report contains a detailed account of the land in the United Kingdom, and of the progress of the survey. It also contains a list of the landowners in the United Kingdom, and a list of the land in the United Kingdom which is held by the Crown. The Commission has also been engaged in a survey of the land in the United Kingdom, and its progress has been reported from time to time to the House of Commons. The Commission has now completed its survey of the land in the United Kingdom, and its final report is presented to the House of Commons in 1875. The report contains a detailed account of the land in the United Kingdom, and of the progress of the survey. It also contains a list of the landowners in the United Kingdom, and a list of the land in the United Kingdom which is held by the Crown.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 17, 1873.—Ordered to be printed.

Mr. MORTON, from the Committee on Privileges and Elections, submit the following

REPORT:

On the 11th day of May, 1872, the Senate adopted the following resolution:

Resolved, That the Committee on Privileges and Elections be authorized to investigate the election of Senator S. C. Pomeroy, by the legislature of Kansas, in 1867, and the election of Senator Alexander Caldwell in 1871; that the committee have power to send for persons and papers; that the chairman, or acting chairman, of said committee, or any sub-committee thereof, have power to administer oaths; and that the committee be authorized to sit in Washington, or elsewhere, during the session of Congress and in vacation.

In obedience to this resolution the committee on Privileges and Elections have had under consideration the election of Alexander Caldwell to the Senate of the United States, in January, 1871, have taken testimony, and beg leave to submit the following report:

It is testified by Mr. Len. T. Smith, a former business partner of Mr. Caldwell, his active friend at the time of his election and during this investigation, that he made an agreement with Thomas Carney, of Leavenworth, by which, in consideration that Mr. Carney should not be a candidate for United States Senator before the legislature of Kansas, and should give his influence and support for Mr. Caldwell, Mr. Caldwell should pay him the sum of \$15,000, for which amount notes were given, and afterward paid, at the same time taking from Mr. Carney a written instrument, in which he pledged himself, in the most solemn manner, not to be a candidate for the office of Senator in the approaching election.

This instrument is in the words following:

I hereby agree that I will not under any condition of circumstances be a candidate for the United States Senate in the year 1871, without the written consent of A. Caldwell, and in case I do, to forfeit my word of honor hereby pledged. I further agree and bind myself to forfeit the sum of \$15,000, and authorize the publication of this agreement.

THOS. CARNEY.

TOPEKA, January 13, 1871.

Mr. Smith's testimony is fully corroborated by that of Mr. Carney, who admits the execution of the paper, the making of the arrangement, the taking of the notes, and the subsequent receipt of the money. The notes for the money were signed by Mr. Smith, but paid by Mr. Caldwell; and one of them, for five thousand dollars, was made contingent upon Mr. Caldwell's election. The substance of the whole agreement, only a part of which was expressed in the writing, was that Mr. Carney should not be a candidate for the Senate against Mr.

Caldwell, that he should use his influence for Mr. Caldwell, go to Topeka, meet the legislature, and do all he could to secure his election.

The first question to be considered is: Was this arrangement corrupt? was it the use of corrupt means, on the part of Mr. Caldwell, to procure his election? The committee are of opinion that it was corrupt; was against public policy; was demoralizing in its character; directly contributed to destroy the purity and freedom of election, and not to be tolerated by the Senate of the United States as a means of procuring a seat in that body.

To understand the full nature of the transaction, we must consider the character and position of Mr. Carney. He had been a governor of Kansas; he had once been elected a Senator of the United States by the legislature of that State, but the election was premature, being at the wrong session; he had been a candidate for the Senate at another time, and had come within ten votes of being elected. He was well known throughout the State, had a large body of active friends, many of whom were warmly devoted to his political fortunes. His being a candidate would greatly endanger the success of Mr. Caldwell, if not certain to result in his defeat. He was from the same city with Mr. Caldwell, and his candidacy would be the more dangerous on that account. When Mr. Caldwell agreed to give him \$15,000 under this arrangement, it was an attempt to purchase the votes of the friends of Mr. Carney. He doubtless expected that Mr. Carney, through his influence over his friends, could bring them over to his support. They would naturally become friends to the man with whom Mr. Carney was friendly. It was, at least, a tacit part of this arrangement that Mr. Carney should conceal the mercenary part of the transaction, and place his withdrawal from the canvass and his support of Mr. Caldwell upon personal and political considerations that were honorable to himself, and would be attractive to his friends; and this he did. Mr. Carney went to Topeka before the senatorial election and remained there until it was over, working industriously for Mr. Caldwell, and exerting all his personal and political influence to secure his election. Looking at the transaction in its real character, it was a sale, upon the part of Mr. Carney, of the votes of his personal and political friends in the legislature, to be delivered by him to Mr. Caldwell, as far as possible. If it were legitimate for Mr. Caldwell to buy off Mr. Carney as a candidate, it was equally legitimate to buy off all the other candidates, and have the field to himself, by which he would exert a *quasi* coercion upon the members of the legislature to vote for him, having no other candidate to vote for. It was an attempt to buy the votes of members of the legislature, not by bribing them directly, but through the manipulations of another. The purchase-money was not to go to them, but to Mr. Carney, who was to sell and deliver them without their knowledge. That Mr. Caldwell did procure the votes of members of the legislature, friends of Mr. Carney, ignorant of the fact that Mr. Carney was making merchandise of his political character and influence, and of their friendship for him, for which he was to receive a large sum of money, the evidence leaves no reasonable doubt.

Buying off opposing candidates, and in that way securing the votes of all or the most of their friends, is in effect buying the office. It recognizes candidacy for office as a merchantable commodity, a thing having a money value, and is as destructive to the purity and freedom of elections as the direct bribery of members of the legislature.

A candidate for the Senate, without strength or merit, may, by purchasing the influence and support of all or a part of his competitors, and

withdrawing them from the canvass, succeed in an election, thus, not only committing a fraud upon the friends of the candidates who were purchased off, but a greater fraud upon the people of the State who may be thus saddled with a representative in the Senate of the United States about whom they know little, for whom they care nothing, and who possesses little ability to represent their interests.

Mr. Smith, the friend of Mr. Caldwell, testifies that he paid Mr. Carney the further sum of \$7,000 while at Topeka and just before the senatorial election, to meet Mr. Carney's alleged expenses while there, and through fear that Mr. Carney would, after all, withdraw from the arrangement and become a candidate.

Upon the check for this sum the money was drawn from the bank at Topeka in the evening by one T. J. Anderson, who testified that he gave it to Mr. Carney, and that he was ignorant of the consideration for which it was paid. Other testimony impeaches that of Mr. Anderson, and raises a strong presumption that he was engaged in the purchase of votes for Mr. Caldwell, and for which this \$7,000 was used, and that for his services he afterward received the sum of \$5,000 from Mr. Caldwell. Mr. Carney swears positively that he did not receive this \$7,000, or any part of it, but he indorsed the check, at the request of Mr. Smith, to enable him to procure the money from the bank; that the money was to be used in procuring votes for Mr. Caldwell, and that a package containing this money, as he believes, was placed by Mr. Anderson on a table in Mr. Carney's room, where it could be and was conveniently carried off by the parties for whom it was intended.

Taking all the testimony together, the probability is that Mr. Carney did not get the \$7,000, as no good reason was presented by Mr. Smith why, when Mr. Caldwell was holding Governor Carney's written promise not to be a candidate and Mr. Carney holding notes to be paid by Mr. Caldwell for \$15,000, a new arrangement should be made by which Mr. Smith should pay Mr. Carney \$7,000 more, making \$22,000 in all.

We now come to the consideration of the transaction with Mr. Sidney Clarke. He had been a member of Congress, had been a candidate for the United States Senate during the preceding canvass before the people, and many members of the legislature were elected upon personal pledges to vote for him for Senator. When the first vote was taken in the separate houses, Mr. Clarke received twenty-seven votes, the largest number given for any candidate but one; but the vote satisfied him and his friends that he could not be elected. An arrangement was concluded between Mr. Caldwell and a Mr. Stevens, a friend of Mr. Clarke, at a late hour in the night before the joint convention of the two houses, by which Mr. Caldwell was to pay Mr. Clarke's expenses in the canvass, estimated at from \$12,000 to \$15,000, and Mr. Clarke was to withdraw in favor of Mr. Caldwell. At a caucus of the friends of Mr. Clarke, held at 9 o'clock on the morning of the joint convention when Mr. Caldwell was elected, Mr. Clarke made a speech, and urged them to vote for Mr. Caldwell, and in joint convention his name was withdrawn, and all his friends but one voted for Mr. Caldwell. Subsequently in this city Mr. Clarke had several conferences with Mr. Caldwell, in which the latter promised to comply with his engagement with Mr. Stevens and pay Mr. Clarke's expenses, estimated at from twelve to fifteen thousand dollars, but never did. Mr. Clarke was unwilling to admit that he had made an agreement to transfer his friends to Mr. Caldwell in consideration of the latter's promise to pay this money, but taking all the testimony together the committee have no doubt that the transaction between him and Mr. Clarke was

as has been stated. Mr. Caldwell's subsequent refusal to pay the money to Mr. Clarke does not relieve the character of the transaction, and very probably resulted in the exposure of Mr. Caldwell and the institution of this examination.

There was nothing in the evidence to show that Mr. Clarke's expenses in the senatorial canvass, or in the preceding canvass before the people, amounted to half the sum which Mr. Caldwell was to pay him.

Mr. Carney and Mr. Clarke each testifies that Mr. Caldwell told them, after the election, that his election had cost him \$60,000. Mr. Anthony, the mayor of the city of Leavenworth, testified that Mr. Caldwell admitted to him that the election had cost him over \$60,000. Mr. Burke, editor of the Leavenworth Herald and a supporter of Mr. Caldwell in his canvass, testifies that after the election Mr. Caldwell told him that the money he had paid Mr. Carney was not more than 10 per cent. of the whole amount which the election had cost him; and on another occasion that the election had cost him more than twice his entire salary.

The committee have had much difficulty in tracing the money transactions; but the evidence shows that various sums, amounting to over \$50,000, were drawn under circumstances that make it probable they were used to procure Mr. Caldwell's election. The sum of \$15,000 paid to Mr. Carney has already been stated. The second sum of \$7,000, which Mr. Len. T. Smith swears was paid to Mr. Carney, and which Mr. Carney denies receiving, and testifies to circumstances showing it was used for the bribery of members of the legislature, has also been referred to. It is further shown that three or four days before the election took place Mr. Caldwell's agent went into the banking-house of Scott & Co., at Leavenworth, and drew the sum of \$10,000 upon Mr. Caldwell's check, for the avowed purpose of taking the money to Topeka by the train that morning, which was given as the reason for presenting the check before bank hours. Mr. Jacob Smith, banker at Topeka, testified that at 9 o'clock in the evening, before the election took place, Dr. Morris, of Leavenworth, a very active friend of Mr. Caldwell, drew \$5,000 from his bank, and that Judge Crozier, of Leavenworth, an influential supporter of Mr. Caldwell, and then at Topeka, laboring for his election, drew \$1,200 from the bank after banking-hours, at the request of Mr. Smith, which was handed over to Mr. Smith. The testimony left no doubt upon the minds of the committee that the bankers, who honored these different checks at Topeka after banking-hours, understood that the money was to be used for political purposes. The evidence further shows that Mr. T. J. Anderson subsequently received from Mr. Caldwell the sum of \$5,000 for his services in the election. A draft for \$10,000, drawn by the solicitor of the Kansas Pacific Railroad Company upon the treasurer of that company, was presented at the Kansas Valley Bank, of Topeka, by Mr. T. J. Anderson, on the 23d of January, the day before the election, and the money drawn upon it, under circumstances which, taken in connection with other testimony, make it probable that the money was used for Mr. Caldwell's election. The committee have no reason to believe that they have traced all the money that was used, and in the foregoing statement have taken no account of several small sums shown to have been paid by Mr. Caldwell for the expenses of his friends while at Topeka.

Mr. William Spriggs, a former treasurer of Kansas, testified in regard to a self-constituted committee of six of Mr. Caldwell's leading friends who met from time to time at Topeka, during the day and evening, for five or six days before the election, to confer and report progress in electioneering for Mr. Caldwell; that during the meetings of

this committee, it was reported by Mr. Smith what members of the legislature had been secured to vote for Mr. Caldwell; how much was offered to others, and how much was asked by others. We quote from his testimony :

We usually met at 10 o'clock in the morning. We had a roll of the senate and of the house and kept them, and we would compare notes, and then such a member of the committee would be sent that day or at such a time to see such members of the house, and such another one to see somebody else, whoever we thought would be the best man for that particular place, and then we would meet again at such another hour, and report what we had done and what success we had had, and in some quite a number of times, I do not know how many. In making the report and comparing notes there was one member of the committee would report; in calling over the names he would come to such and such a man and he would say, "We had better not count that man yet; that is under negotiation, and he is a little too high; I think I can bring him down some."

This witness testified to several interviews with Mr. Caldwell, and we quote from his testimony :

I will just tell you what Mr. Caldwell said to me about it. He asked me if I knew any members of the legislature that could be influenced by the use of money for their votes, and I told him that I knew two members, I believed, that had the reputation of having been influenced in their votes on former occasions.

And further on :

He said if I found any members that wanted a little money for votes, to send them to him and to Len. Smith.

Mr. Caldwell said there was another class of high-toned gentlemen there in the legislature that would not sell their votes, but they put it in this way : that they had been to a pretty heavy expense in carrying their election, and they would want their expenses paid, and if I met with any of that class to send them to him or to Len.

The testimony of Mr. Spriggs is very full, and shows that the canvass of Mr. Caldwell was thoroughly corrupt, and that money was the chief argument relied upon. Among many other things, he stated that T. J. Anderson told him that he had paid Mr. Crocker, a member of the house, \$1,000 for his vote; that Mr. Crocker afterward backed out, and handed the money over to a Mr. Carson to be returned to Mr. Anderson; that Carson got on the cars, went home, and kept the money. Carson was afterward called by the committee, and corroborated the statement, admitting that he had received the \$1,000 back from Mr. Crocker to be returned to Mr. Anderson, but that he had kept the money himself for his services to Mr. Caldwell. Mr. Carney testifies that, in an interview with Mr. Caldwell after the election, in which he was urging him to procure an appointment for one of Mr. Carney's friends who had voted for him, Mr. Caldwell took from his pocket a memorandum-book, and appeared to run over a list of names, and coming to the man referred to, said, "That man has been paid;" and Mr. Carney understood from his manner that he had in this memorandum-book a list of members with the sums paid to each; that Mr. Caldwell told him upon another occasion that he had paid Mr. Bayers the sum of \$2,500 for his vote and Mr. James F. Legate the sum of \$1,000 for his vote. Mr. Anthony also swears that in a conversation with Mr. Caldwell that gentleman admitted to him that he had paid \$2,500 for the vote of Mr. Bayers. There is much testimony showing that Len. T. Smith, Frank Drenning, James L. McDowell, George A. Smith, and T. J. Anderson, among the most active friends of Mr. Caldwell during the canvass, admitted at different times that they had offered money to members of the legislature to vote for Mr. Caldwell, in some cases specifying the members to whom it was offered and paid, and in other cases that offers had been made that had not been accepted, and that negotiations were

on hand with others which had not been completed. These men have denied before the committee all conversations and admissions of this character, and all payment of money to members, or offers to pay them, and several members of the legislature who were implicated have expressly denied that they received the money or that offers were made them.

Mr. Caldwell offered testimony showing that Mr. Carney had made threats to have him ousted from the Senate; that Mr. Anthony was hostile to him; that Mr. Burke had a lawsuit with him, growing out of money furnished to Mr. Burke about the time of the election; and to contradict several statements of Mr. Clarke. The most important contradictions of the testimony produced against Mr. Caldwell are made by members of the legislature, who were themselves implicated, or by the agents of Mr. Caldwell, who were directly charged with taking a part in these corrupt practices; and there are some contradictions made by witnesses against whom there is no cause of suspicion. But taking the testimony altogether, the committee cannot doubt that money was paid to some members of the legislature for their votes, and money promised to others which was not paid, and offered to others who did not accept it.

By the Constitution, each House of Congress is made the judge of the elections, returns, and qualifications of its members.

If a person elected to the Senate has not the constitutional qualifications, or if the election is invalid, by reason of fraud or corruption, the jurisdiction to examine and determine is expressly vested in the Senate.

Another clause of the Constitution authorizes the Senate to expel a member by a two-thirds vote. The causes for which a Senator may be expelled are not limited or defined, but rest in the sound discretion of the Senate.

It has been a subject of discussion in the committee whether the offenses of which they believe Mr. Caldwell to have been guilty should be punished by expulsion or go to the validity of his election, and a majority are of the opinion that they go to the validity of his election and had the effect to make it void. Wherefore the committee recommend to the Senate the adoption of the following resolution:

Resolved, That Alexander Caldwell was not duly and legally elected to a seat in the Senate of the United States by the legislature of the State of Kansas.

In conclusion the committee remark that, while Mr. Caldwell did things to procure his election which cannot be tolerated by the Senate, they believe he was as much sinned against as sinning. He was a novice in politics, and evidently in the hands of men who encouraged him in the belief that senatorial elections in Kansas were carried by the use of money.

SENATOR CALDWELL'S ELECTION, KANSAS, 1871.

WASHINGTON, D. C., *Friday, January 10, 1873.*

Hon. SIDNEY CLARKE sworn and examined.

By the CHAIRMAN, (Mr. MORTON :)

Question. Where do you reside, Mr. Clarke?

Answer. At Lawrence, Kansas.

Q. Now will you state to the committee what you know in regard to the charges brought against Mr. Caldwell, of bribery and corruption in the matter of his election to the Senate of the United States, and make your story as succinct as you can to express the facts? Go on and tell it in your way.

A. My knowledge in reference to the charges of bribery and corruption against Mr. Caldwell is derived from what has been communicated to me at different times by persons who were immediately or actively interested in Mr. Caldwell's election, and by Mr. Caldwell himself.

Q. Now state to the committee what Mr. Caldwell told you, and when it was, as nearly as you can.

A. At this moment I do not remember the date of the election, but I will describe it in this way: After the first vote was taken——

Mr. CALDWELL. The votes were taken on the 24th and 25th of January, 1871.

The WITNESS. After the vote was taken for Senator in separate houses, and I was at supper in the Tefft House, Topeka, about dusk, I received a note from Mr. Caldwell, or from some of his immediate friends—my impression now is it was from Mr. Caldwell himself—asking me to meet him in an upper room of the Tefft House.

The CHAIRMAN. Have you that note?

A. No, sir. It was simply an ordinary note with that request.

Q. Is it in existence?

A. No, sir, I think not.

Q. Did you preserve it at all?

A. No, sir.

Q. You are satisfied it is not in existence?

A. I am.

Q. You may state its contents.

A. It requested me to meet him immediately in an upper room of the Tefft House, where Mr. Caldwell and myself both had rooms. I finished my supper and went to my room and consulted with friends, who happened to be present, as to the propriety of having a personal interview with Mr. Caldwell, in compliance with his request. It was thought best by those whom I consulted that I should see him, and I went up and found him in an upper room. I do not remember the number. Mr. Caldwell said to me in substance——[The witness examined here the printed report of the joint committee of investigation appointed by the Kansas legislature of 1872 to investigate all charges of bribery and corruption connected with the Senatorial election of 1871.]

The CHAIRMAN. I would suggest to the witness that it is hardly proper

for him to read what he has said at another examination. He may refresh his memory by referring to it, not by reading it, if he remembers the fact. I believe that is the rule of evidence.

The WITNESS. Mr. Caldwell said to me that it was in my power to decide the result in his favor "in the joint convention to-morrow."

Q. He was not elected by the two houses?

A. No, sir; and he earnestly urged upon me to do so. He sat down immediately in front of me, put his hands on my knees in this form, [illustrating,] and stated that if my friends, those who had voted for me in the separate houses, would vote for him in the joint convention there could be no doubt about his election. I replied to him in substance, "Mr. Caldwell, so far as my own feelings are concerned toward you and those who are here working for your election, I should prefer your election to the election of Ex-Governor Crawford, who appears to be supported by a class of men who have followed me with great vindictiveness through the newspapers and on the stump eight or ten months; but my objection to supporting you is that nearly all the strength you have developed in the two separate houses has been obtained by the direct use of money; and if I or my friends should support you in the joint convention to-morrow we should, in the estimation of the people, become at least partially responsible for the result," and I declined to make the arrangement which he suggested.

Q. What further conversation occurred?

A. Mr. Caldwell then said, in substance, that success, his own success, would do away with the stigma of the transaction, replying to my idea that the use of money, as he understood it—I can't express it exactly as he did—but that his own success would do away with it; and said to me, "You see what I have done here, and you must have been at considerable expense in paying the expenses of your friends and conducting the canvass;" and he manifested his willingness to defray such expenses—political expenses—as I had been to in the canvass.

By Mr. ANTHONY:

Q. How did he manifest his willingness? Did he say he would do it?

A. Yes, sir. He proposed to me to do it. He also said to me that another senatorial election was to occur two years hence, and if I would give him my political influence, or if my friends would, he would pledge me to do whatever was in his power to secure my election in place of Mr. Pomeroy. [A pause.]

The CHAIRMAN. You may proceed without hesitation, as the reporter will take your language.

The WITNESS. Yes, sir; but I have some difficulty in getting at the order of things. Allow me to refresh my memory by referring to some testimony I have given here.

The CHAIRMAN. Certainly, sir.

The WITNESS. [Examining the printed report before referred to.] I declined to make any arrangement with Mr. Caldwell, and he earnestly insisted, before we left the room, that I should make an arrangement to meet him at some time during the night. I declined to make any definite arrangement with him, and told him I was going across the street to attend a caucus of the members of the legislature who had voted for me, and others also, and if he wanted to see me he could do so at some future time. I went across the street where the caucus had assembled, I think, at 8 or 9 o'clock, and was in consultation with my political friends until, I suppose, midnight. During that time I suggested to the caucus of my friends who had voted for me the propriety of suggesting

to what was known as the anti-Clarke caucus, (I mean the gentlemen whom I have heretofore spoken of as the friends of Ex-Governor Crawford,) which was in session at Union Hall on the opposite side of the street—I suggested to them the propriety of uniting the two caucuses in opposition to Mr. Caldwell, and upon one of several gentlemen, who were named, for the purpose of going into the joint convention and secure the defeat of Mr. Caldwell on the following day.

By the CHAIRMAN:

Q. That was your suggestion?

A. Yes, sir; the committee from the anti-Clark caucus appeared about this time. Myself and the Hon. John M. Price, of Atchison, State senator, and General S. M. Strickler, member of the house of representatives, were appointed a committee to proceed across the street for the purpose of attempting to unite upon some other person, with authority from the caucus to propose the names of some six gentlemen, if I remember aright; among them were the names of Hon. P. P. Elder, Hon. S. M. Strickler, Hon. John M. Price, Hon. John P. Morton, Judge Valentine, (of the supreme court,) and one or two others. On arriving at the door of the anti-Clarke caucus room, on the other side of the street, much to our surprise, we were refused admittance. We remained there nearly an hour. They finally told us they would confer with us by committee, and we could not be admitted to the caucus. The consequence was we retired to our own room, and the caucus broke up, by agreeing to meet at my room at the Tefft House on the following morning. Somewhere about 2 or 3 o'clock at night I was requested to go into the room of the Atchison delegation immediately opposite mine, all the members of which had voted for me for Senator, for consultation. I found the delegation in session, accompanied by a large number of prominent men from Atchison County, consulting as to what course they should pursue on the following day. Colonel Peter T. Abell, of Atchison, was presiding at the meeting. The whole question of what course the delegation should pursue was talked over and discussed by members of the legislature and by others who were in attendance. I was finally requested to go up to Mr. Caldwell's room and ask him to come down and meet the delegation. I did so. I found him in bed with Mr. Purcell, of Manhattan, Kansas. I informed him that the Atchison delegation desired to see him. He got up and dressed himself and walked with me down to the room. The delegation propounded to him certain questions in reference to local measures, and before he left the room decided to support him by a vote, first, of the members, and, second, of those gentlemen who were in attendance from the county. They decided to support him for Senator in joint convention. I think by this time it was nearly five o'clock in the morning. There was great excitement about the hotel, it being a large hotel and very full. The passage-ways and rooms were full of people, actively discussing the matter. I went from the room of the delegation into the room of Mr. R. S. Stevens, on the same floor, near the other end of the hall, during the progress of the caucus, and afterward in reference to which I have spoken. [The witness in giving the foregoing testimony held open before him the printed record of the investigation in Kansas.]

Mr. CALDWELL. May I interrupt the proceedings so far as to ask if it is proper for the witness to substantially read his testimony given on a previous occasion?

The WITNESS. I will say I am not reading. I am merely refreshing my memory.

The CHAIRMAN. The witness has the right to refer to it as a memorandum to refresh his memory, but not to give in evidence the testimony that he gave before by reading it here. If by reference to it he refreshes his memory, so he remembers it otherwise and independently, that, I believe, is legitimate. But he has not the right to read the record or memorandum in order to speak from that literally.

Mr. CALDWELL. As I am not a lawyer, I simply suggested.

The WITNESS. I will simply refer to it to refresh my recollection. These transactions, you will remember, were nearly two years ago. I remember now that during the progress of the caucus and at different times during the night prominent gentlemen who were friends of mine, among whom I may mention Mr. J. H. Shimmons, of Lawrence, now of the Kansas Tribune; Senator Worden, from Douglas County; Colonel Tom Murphy, representative from Atchison County, stated to me that it would be nothing more than fair and right that Mr. Caldwell should pay the legitimate political expenses that I had incurred at the hotel and in the canvass.

The CHAIRMAN. It will be for the committee to determine whether the statement to the witness by other parties shall be put down as testimony.

Mr. TRUMBULL. I should not think there was any objection to putting that down.

Mr. ANTHONY. I think it is of no consequence whether put down or not.

Mr. TRUMBULL. It comes along in the connection, and seems to be a part of the narrative. There is no harm in it.

Mr. HILL. It does not touch Mr. Caldwell at all.

The CHAIRMAN. Go on, Mr. Clarke.

The WITNESS. I remember distinctly Colonel Murphy mentioning this subject to me somewhere near morning. I said to him that I was quite poor, and that I would have nothing to do in the matter; that I had made a speech nearly an hour in length at the caucus of my friends, setting forth what I believed would be the consequence of Mr. Caldwell's election, and stating to them distinctly that I believed his vote in the separate houses had been obtained by the direct use of money, and that if my friends yielded and supported him in joint convention they would, in a measure, become responsible, and that I would have nothing to do with the matter. After leaving the Atchison delegation I went into the room of Mr. R. S. Stevens, at the opposite end of the hall. While there, Mr. Caldwell came in, I think in company with Mr. Stevens. I cannot testify very distinctly about that matter, because it was a general sort of headquarters, and persons were passing in and out of the room nearly all the time, and how much time elapsed I am not able to say.

By Mr. TRUMBULL:

Q. Are you positive that Mr. Caldwell was there?

A. Yes, sir; Mr. Caldwell came in company with Mr. Stevens, and commenced conversation generally about the election, and about the expenses which I had incurred. I only remember now that such a conversation took place. I am not able to repeat what was said, only that there was a conversation of that character.

By the CHAIRMAN:

Q. Whose friend was Mr. Stevens?

A. I understood him to be my friend.

Q. Who began this conversation about the expenses?

A. Mr. Caldwell.

Q. About your expenses?

A. Yes, sir; I happened in the room by accident; or rather you may call it an accident. I passed in there.

Q. Now, what did Mr. Caldwell say?

A. I can't remember positively what he said, only that he proposed to pay such expenses as had been incurred by myself and friends in the canvass for Senator.

By Mr. ANTHONY:

Q. Did he propose to pay any other than legitimate expenses?

A. No, sir; I didn't understand that he did. I ought to state right here that a large number of my friends were in attendance on the senatorial election, I suppose as many as two or three hundred, from all parts of the State, prominent men; that my own rooms, were at the Tefft House, and, in addition to them, I had five rooms, known as the caucus-rooms, on the opposite side of the street; that Mr. Stevens had another independent headquarters, the place in reference to which I am now speaking; that Colonel Abell, of Atchison, had another place, distinct from those I have mentioned; and, in fact, we occupied a large portion of the hotel. Mr. Caldwell and his friends and Ex-Governor Crawford and his friends were also at the same hotel, though a portion of our friends occupied other places about the town.

Q. Then I understand the expenses he offered to pay were the hotel bills of yourself and friends?

A. Yes, sir; such expenses. For instance: at my caucus-rooms, on the opposite side of the street, refreshments had been served to gentlemen in attendance on the election. The town was very full, and it was not a very easy thing to get proper things to eat.

By the CHAIRMAN:

Q. Was there any understanding between you and your friends who were there—you say two or three hundred——

The WITNESS. I say two or three hundred; I mean a large number.

Q. Was there any understanding between them and you that you were to pay their hotel bills and traveling expenses?

A. I had written to a great many men before leaving Washington, requesting them to come to Topeka; and Mr. Adams, of Topeka, who was a friend of mine, had engaged quite a large number of rooms; and I had invited a large number of gentlemen to come there to assist me in the canvass. No specific arrangement had been made in reference to paying their expenses, although I regarded myself as being somewhat liable in consequence of the fact of myself and friends having invited these gentlemen to come and assist in the canvass.

By Mr. ANTHONY:

Q. You regarded them as your guests?

A. Yes, sir; that was the situation.

By the CHAIRMAN:

Q. And the reply was made by yourself to his suggestion that he would pay these expenses?

A. Yes, sir.

Q. What was said about it?

A. I can give you the idea, but not the language of the reply.

Q. Can you give the substance of what was said?

A. Yes, sir; I think I can, if you will allow me a moment. At the time I testified at the legislative investigation at Topeka, I did not have

in my mind the reply which I made when this conversation took place in Mr. Stevens's room, and I would like to be allowed by the committee to now give in my statement the reasons why.—

By Mr. HILL:

Q. Why, you did not include that in your previous testimony?

A. Yes, sir; I would like to give the committee the reasons.

Mr. TRUMBULL. I see no objection.

The WITNESS. I had made a very excited speech to my friends against going for Mr. Caldwell, giving the reasons, and had just returned from the caucus rooms, and was disappointed at the course of the Atchison delegation resisting what I will call my programme for the following day, and breaking my column, and I was laboring under rather intense mental excitement; and I suppose not one minute or three minutes elapsed but what I was approached by somebody during all this time, and sometime having passed away I did not remember. My remembrance now of what took place is based upon subsequent conversations which I have had; for instance, I have seen and talked with Mr. Stevens and other gentlemen incidentally, and I now have a very correct idea in my mind of the remarks I did make on that occasion, and if the committee think it proper for me to include it in my statement, I will do so.

By Mr. TRUMBULL:

Q. You mean your remarks in the caucus room?

A. No, sir; to Mr. Stevens and Mr. Caldwell, when my expenses were being talked of. I have made these remarks preliminary to my answer as giving the reasons why I had no distinct recollection of my remarks at the time I gave my former testimony.

The CHAIRMAN. We are not asking you now about your former testimony. Go on and state what you remember to have said in substance.

The WITNESS. I said in reply, it would be manifestly improper for me to make such an arrangement where myself and my friends had been to a large expense, I suppose twelve or fifteen thousand dollars; that I could not make any arrangement. But Mr. Stevens said to me "Why not let me make it?" or something of the kind. I remarked to him, "You may do as you please," or some remark of the kind, and leaving, went to my own room. The interview was very brief. I think I ought to say that I was asked by Mr. Caldwell or Mr. Stevens what the expenses would amount to. I of course had no idea, because there was a very large number of persons there, and I, myself, did not make the arrangements for the hotel, and the caucus rooms, and refreshments, &c. They were made, as I stated before, by Mr. Adams, my friend, at a previous time, and by Colonel Abell, and others, and they were outside of my arrangements.

By the CHAIRMAN:

Q. Was there any estimate made at the time of this conversation?

A. Yes, sir; I think I was asked what I supposed the expenses would amount to, and I replied incidentally, I supposed they would amount to twelve or fifteen thousand dollars, but stated to Mr. Stevens and Mr. Caldwell that I could not make any arrangement, as I had previously replied to my friends, who had spoken to me on the subject; and leaving, went to my own room.

Q. Did you leave the matter to Mr. Stevens to make the arrangement?

A. I said to Mr. Stevens that he could do as he pleased.

Q. In acting on your behalf?

A. Yes, sir.

Q. When this proposition by Mr. Caldwell to pay your expenses was made, and when you left the matter to Mr. Stevens, had there been a previous understanding brought about, or was there then an understanding had, that in consequence of this your friends were to go for Mr. Caldwell?

A. No, sir.

Q. What then was the inducement to make him pay your expenses?

A. All the indication, or rather inducement, which existed at that time, I mean at the time of the last conversation in Mr. Stevens's room, was the fact that the Atchison delegation and a portion of my friends had previously decided that they would support Mr. Caldwell. Of course gentlemen of the committee will remember that this was late at night, three or four o'clock in the morning. All the rest of my friends were presumed to be in bed.

Q. They had made that decision against your wish?

A. Yes, sir. I had made a speech, as I previously stated, in caucus, heard by all the members of the legislature who had voted for me, and two or three in addition, and also by other gentlemen, protesting against it, and giving my reasons.

Q. When Mr. Caldwell made this proposition to pay your expenses, did he say anything about doing it upon the condition that your friends should, go for him?

A. No, sir.

Q. Did he make that another condition?

A. No, sir; there was no condition about it. He had only the same information that I had; namely, that the Atchison delegation had decided, and that would probably decide the result.

Q. When you left the room and left the matter with Mr. Stevens, was it your understanding then with him that you were off of the track and your friends were to go for him?

A. I had no idea of the kind, and had stated in the caucus previously that in my judgment I could not be elected. Before any determination had been reached by the whole body of my friends in the legislature as to what course they would pursue, they had dissolved the caucus and gone to their respective places, except the Atchison delegation. I regarded—if you will allow me still further—I regarded the decision of the Atchison delegation as fatal to my own election, and I suppose it was so regarded by all intelligent men in attendance on the legislature.

By Mr. ANTHONY :

Q. Then this offer of Mr. Caldwell to reimburse you the legitimate expenses of the canvass was made after his election was practically assured?

A. Well, sir, I hardly know how to answer you, only I am free to confess I regarded the decision of the Atchison delegation as fatal to my election.

Q. What was his motive in offering to pay you when his election was assured?

A. He must answer you that. I cannot tell his motive, only he was very anxious.

By Mr. TRUMBULL :

Q. Did I understand you to say that he made the same suggestion to you at his room, before the Atchison delegation had acted?

A. No, sir. There was nothing said, only I said he was requested to step down.

Q. In your previous testimony you stated that you went to Mr. Caldwell's room on his invitation?

A. No, sir; you are mistaken; at the request of the Atchison delegation.

Q. You spoke, early in your testimony, of receiving a note from either Mr. Caldwell or some of his friends, and you thought from him, asking an interview?

A. Yes, sir.

Q. You said that you consulted with your friends, and acceded to the request for an interview, and went to his room?

A. Yes, sir.

Q. Was that before the action of the Atchison delegation, or after?

A. That was before; early in the evening, before the caucus of which I have spoken.

Q. At that meeting I understood you to say, when you went to his room, he proposed to pay your expenses?

A. Yes, sir.

Q. That is what I wanted to get at.

A. Yes, sir. I did not understand you.

By the CHAIRMAN:

Q. Alluding to your first conversation in his room, I want to ask a question. I understand you to say you told him that the strength he had had in the two houses in the vote on that day had been obtained, as you understood it, by money.

A. Yes, sir.

Q. What reply did he make to that?

A. I made the statement that it had been obtained by money, and that in consequence of this I could not support him, and his reply was that success would take away the stigma.

By Mr. LOGAN:

Q. In the answer you gave to that question you use the expression, "to take away the stigma." Do you recollect that that word or expression was employed, and did he speak of the impression or the fact that existed?

A. Well, sir, I am trying to give to the committee the exact idea. I do not think I could swear positively that the word "stigma" was used, but the impression.

Q. The point is this: You say you do not remember exactly the words, but give the substance—what you inferred; now was it your inference that he meant it would take the stigma of his action, or that it would take away the impression that had been formed in reference to it?

A. In reply to your question, I ought to say that [pausing] I can give you the idea if you wait a moment. State it again.

Q. The point I want to get at is this: Whether in this conversation about "taking away the stigma," he spoke of his own act as a fact, or in reference to the impression that existed among others? You spoke of saying that money had been used, or you had so understood; now, did his reply indicate that he referred to removing the impression, or to covering what had been in fact done?

A. Well, now, the exact fact was this: I know of nobody about the legislature that entertained any different view of his candidacy than that which I have expressed myself and I expressed to Mr. Caldwell

when I said to him, "Your strength has been obtained by money;" what was in everybody's mouth; what was the general impression; what had been frequently communicated to me by members of the legislature who were in consultation with Mr. Caldwell and his agent, Mr. Smith, and others, who were there laboring to secure his election; and with that impression from the communications of members of the legislature, some of whom informed me that they had been offered money about Mr. Caldwell's rooms and by his agents—with that impression on my mind and that belief, I was quick to answer him that I could not support him, because his strength had been built up by money, meaning that everybody so regarded it, everybody so believed it, and that it would go out to the people of the State as a money transaction—a corrupt transaction. That is my meaning.

Q. That was what you meant, then?

A. Yes, sir; that was the condition of my mind.

Q. I want the answer of Mr. Caldwell to that; whether he referred to removing an impression that had been made, or to covering up a fact?

A. I understood him to mean that when it would be announced that he was elected success would take away out of the public mind this idea which I conveyed to him by my own expression, viz, that money had secured the result.

Q. You do not remember his exact words?

A. No, sir; you see my idea?

By Mr. ANTHONY:

Q. Did Mr. Caldwell's reply convey to you the impression that the charge was true, or that it was merely a report?

A. It certainly did convey the impression to me that it was true. That impression was sustained, of course, by the frequent and almost public declarations of Mr. Caldwell's agents during the whole progress of the election, namely——

The CHAIRMAN: I think it would hardly be proper for the witness to give these statements.

By the CHAIRMAN:

Q. I will ask this question, (take your time to answer it.) When you left Mr. Stevens's room, and left the matter in his hands to make the arrangement with Mr. Caldwell about your expenses, did you still have the impression you had mentioned in his room that his strength in the legislature was the result of money?

A. Yes, sir; so far as the vote he had received in the separate houses was concerned. So far as the Atchison County delegation was concerned I had no such impression, but believed that they acted upon what they conceived to be the political situation. I believed them to be, and knew them to be, firm friends of mine, and that they had chosen to support Mr. Caldwell instead of Governor Crawford because of the bitter personal abuse that had been heaped upon me by Mr. Crawford's friends.

Q. One question further: Did you, then, regard that remark of yours, "leaving the matter in Mr. Stevens's hands," as being consistent with the statement you had made to Mr. Caldwell, in his room, that you could not make any arrangement with him because you believed his strength was the result of money?

A. Yes, sir, for this reason: I, myself, did not have a sufficient amount of money to defray the large expenses which had been incurred by these gentlemen who were in attendance on the legislature. Mr. Stevens was there as my friend, and had incurred a large portion of the

expense. What was true of Mr. Stevens was also true of Colonel Abell and others, who were prominent friends of mine in attendance on the legislature. As I said before, I had made none of the arrangements. Mr. Adams had made all the arrangements on behalf of myself. Mr. Stevens, Colonel Abell, and other gentlemen, had made the other arrangements. I did not regard these expenses as being exclusively mine, but I regarded Mr. Stevens, Mr. Abell, Mr. Adams, and others, as equally involved in paying the expenses, and it was because of these reasons, while declining myself, that I said to Mr. Stevens that he could do as he pleased, meaning that he could do as he pleased for himself.

Q. Not for any expense you had incurred?

A. No, sir; I left the whole matter with him. I have made this statement to you to show the condition of the whole matter.

By Mr. ANTHONY:

Q. You left the whole matter so far as his expenses were concerned, not your expenses?

A. Well, sir, he was there like these other gentlemen interested and laboring for my election, and knowing myself that I did not have the money, I felt some delicacy as to the situation they would be left in whenever the election should be over. I am trying to give you my idea exactly.

By Mr. TRUMBULL:

Q. Do you understand this to be what you meant, that Mr. Stevens had expended a large amount of money in your interest there, without consulting you, for which he himself would be responsible, and you did not want him to be out of pocket, and you meant to leave him to make his own arrangement with Mr. Caldwell?

A. I meant exactly this, yes, sir, with this further explanation—you say "expended a large amount of money."

Q. Well, an amount of money?

A. That he had brought with him a good many of his men, and they had headquarters, and it had been the habit, during elections there, for the Topeka hotels to charge what we regarded as exorbitant prices, at the rate of perhaps six or eight persons for a small, insignificant room, and the canvass had lasted for nearly three weeks, and the bills had run up very large, and these gentlemen, being my friends, were involved, as I did not have the money. That is what I mean. I say again, what was true of Mr. Stevens was true of Colonel Abell and of Mr. Adams, who was a devoted friend of mine, and, having that feeling, I felt that I ought not to take all the responsibility, but simply take a portion of the responsibility for myself.

By Mr. HILL:

Q. At the time you told Mr. Caldwell that the strength he had developed before the separate houses you believed to be through the operation of money, did he, in any reply to that declaration of yours, exhibit any heat or indignation? Did he resent it in any way?

A. No, sir.

Q. Did he deny it?

A. No, sir. As I have already said, he immediately replied to me that success would cure the whole matter.

Q. Was that the only reply?

A. Well, sir, some other conversation ensued there, but that was the substance of the reply.

By Mr. TRUMBULL:

Q. Let me ask a question right there. Did you state to him as a fact that his strength had been procured by money, or your belief of it?

A. I stated to him as my own belief, founded upon——

Q. No matter what it was founded upon. I want to know what you stated. Did you state it in that way—"Your strength, Mr. Caldwell, has been obtained by the use of money;" or did you say, "I believe it," or "It is the impression?"

A. The form of statement was: "The strength you have obtained in the separate houses has been obtained by the use of money."

Q. You state that positively?

A. Yes, sir. "And in consequence of this I cannot make the arrangement you want to, although my personal feelings would favor you instead of favoring the other side."

By the CHAIRMAN:

Q. Go on, Mr. Clarke. What is the next link? Did you see Mr. Caldwell after that, before the joint convention took place at 12 o'clock?

A. Yes, sir. As I previously stated, a caucus of my friends was called at 9 o'clock, if I remember aright, on the morning of the joint convention, at my own rooms at the Tefft House. These members of the legislature were present in my room at that time, and Mr. Caldwell came in.

Q. What members? The Atchison members?

A. The gentlemen who had voted for me. I had received twenty-seven votes.

Q. All your friends?

A. They were all present, I think, and one or two in addition who had said they would vote for me in joint convention. Having become thoroughly satisfied that I was beaten I declined going into joint convention, and these gentlemen decided that they would support Mr. Caldwell. Previous to this time, however—I am not particular as to the time—Mr. Caldwell came into the room and was introduced. I think I introduced him myself to the gentlemen of the legislature who were present at some time before the meeting was over. I do not remember whether Mr. Caldwell was present or not. The matter was talked over, a vote was taken, and I think all but one of the gentlemen who were present in the room, of the twenty-eight or twenty-nine, voted that they would support Mr. Caldwell in joint convention. One gentleman, Mr. Ingle, from my own county, declined to do so. The meeting was very short. The two houses met at 12 o'clock.

Q. Was Mr. Caldwell present at the meeting in your room?

A. He came in and was introduced to several gentlemen. I will say, in connection with this narrative, that after he came in some gentlemen from the southern portion of the State propounded to him some questions in regard to the Osage lands—local questions relating to the subject. He stated his position and retired.

Q. Was there anything said in that caucus in your room in regard to expenses?

A. No, sir.

Q. Was there anything said about it?

A. No, sir.

Q. Did you say anything in that meeting that you desired your friends to go for Mr. Caldwell?

A. No, sir. I think I introduced my friends to Mr. Caldwell, and I

hardly remember what was said. Whether I made any remarks to the caucus or not, I do not remember at this time.

By Mr. HILL:

Q. Was it pre-arranged that he should be there to meet your friends?

A. No, sir; I do not remember that it was.

By Mr. CALDWELL:

Q. I will just ask you if I did not go there by your invitation?

A. No, sir; I do not think you did.

Q. By arrangement?

A. No, sir. I refer to the meeting at 9 o'clock.

Q. I refer to that. I ask if, when we went to the room, your friends were not all assembled and I was introduced to them formally by you?

A. I have already stated that I introduced you.

Q. I was introduced by you?

A. Yes, sir. I was aware that you were a stranger to many of them, and I generally try to be courteous to gentlemen who come to my room.

Q. State why you took me to that room.

A. I have no recollection of taking you to that room. I did not have you in charge at that time.

Q. Do you not recollect of inviting me to go there?

A. No, sir; I do not.

Q. Do you not recollect that at that meeting all my friends expressed themselves as favorable to my election?

A. I have already stated that my recollection is that the subject was talked over, and I think before the caucus dissolved that a formal vote was taken, that the gentlemen present in the room, with the exception of Mr. Ingles, decided, either by raising the hand or in some other way, to support Mr. Caldwell.

By the CHAIRMAN:

Q. Was that in Mr. Caldwell's presence?

A. Yes, sir; it is my impression. I believe the legislature met at 10, and this meeting was at 9 o'clock. It was a very short meeting.

By Mr. LOGAN:

Q. Are you through with your narrative?

A. No, sir; I am not.

By the CHAIRMAN:

Q. I will ask you one question further upon this point. In any introduction of Mr. Caldwell to your friends, and what you stated there, was an understanding manifested at that time that your friends were to go for you and that that was your wish?

A. Well, sir, that was my position. My recollection has since been refreshed upon it during the last season. After the meeting of the Atchison delegation, and they had decided to support Caldwell, and I regarded it as fatal to my own election, I took out Colonel Murphy, a prominent citizen of Kansas and a member of that delegation, and said to him, (I have been reminded by him since that it was about daylight,) "I dislike to place myself in a factious position toward my friends. I said that the Atchison delegation had supported me, not only for Congress, but for Senator, with great unanimity. That they were my true friends, and I felt a delicacy in placing myself in antagonism to them, but that my deliberate judgment was that voting for Mr. Caldwell would place upon them a portion of this stigma I have spoken of, and

that while I was beaten and would not be a candidate in joint convention, and would not make a factious opposition to the great body of my friends in this matter as to who should be the candidate, yet that this was not my judgment."

Q. That was your conversation with Colonel Murphy?

A. Yes, sir; after the decision I simply went to the caucus, which had been appointed the night previous, you remember, simply passively to be there and have it understood that I did not——

Q. It was in your own room?

A. Yes, sir—and to have it understood that I was not occupying a captious position.

By Mr. HILL:

Q. Can you tell us whether, between the interview you speak of at Mr. Stevens's room, and the meeting of your friends in your room the next morning at 9 o'clock, you know of any other interview between Mr. Caldwell and any of these friends of yours having taken place?

A. Well, sir, this was one of the most lively contests in which I have ever been engaged, and my judgment is that interviews were taking place all the time, as very few of the active politicians on either side slept much through the night.

Q. At the time of your leaving Mr. Stevens's room, was it understood among your friends, or by yourself, that they would acquiesce in Mr. Caldwell's election and vote for him?

A. No, sir; only the Atchison delegation, who had formally decided at the meeting I referred to.

Q. Do you know at what time the remainder of your friends fell into the lead of the Atchison delegation, at what time they agreed to it?

A. No, sir.

Q. Did you know it before you went to your room, at 9 o'clock, that they were going to do what they did do—vote for Caldwell?

A. No, sir; the political situation was not such that I could anticipate what all these gentlemen would do.

Q. Were you surprised at the unanimity with which they agreed to support him?

A. Well, sir, I was somewhat surprised.

Q. You did not know how to account for it?

A. Yes, sir; I can account for it very easily. The canvass had been a remarkably severe and bitter one, and for eight or nine months I had been more bitterly denounced than anybody else in the State. The factions were divided into Clarke and anti-Clarke parties, Mr. Caldwell coming in as a third party between the two. That I regarded as the reason that men's minds were worked up, and it was generally remarked that I had been so bitterly and unjustly denounced by the anti-Clarke faction supporting Ex-Governor Crawford that in decent self-respect these gentlemen could not support him.

By Mr. CALDWELL:

Q. Was not the canvass a positive one for you and a negative one for anybody else? Was it not Clarke and anti-Clarke? I believe it is what you said, that the fight was made upon you all through the State, and "the candidates were Clarke and anti-Clarke except myself."

A. Yes, sir; in a certain sense that was so.

Q. What I mean is, were all these other candidates combining and going into an anti-Clarke caucus?

A. Yes, sir; the general designation of the men opposed to me in the

legislature for Senator was anti-Clarke, and the State was so divided in the canvass, as the records will show.

Q. You did not regard me as belonging to the anti-Clarke ring at the time.

A. Not particularly; no, sir. I regarded your transaction simply as a money transaction.

By the CHAIRMAN:

Q. State whether between this meeting in your room, at 9 o'clock in the morning, and the meeting at Mr. Stevens's room he had seen you after you had left him with Mr. Caldwell in Stevens's room.

A. I do not remember that he had.

Q. Do you understand what arrangement he had made, if any, with Mr. Caldwell?

A. No, sir; the period of time to which you refer in this question was about daylight. I went into my room, I remember, and went to bed, and I got up to breakfast, and by that time it was 9 o'clock.

(At 12 o'clock and 15 minutes p. m. the committee took a recess of one hour, after which the examination of Sidney Clarke was resumed, as follows:)

By the CHAIRMAN:

Q. You state that you had not seen Mr. Stevens between the time you left his room and this caucus, at 9 o'clock.

A. I do not remember that I did.

Q. Perhaps we can facilitate it a little by asking some questions. Did you see Mr. Caldwell between the time of the caucus, at 9 o'clock, and the joint convention, at 12 o'clock?

A. No, sir.

Q. Did anything further occur between you during that time?

A. No, sir.

Q. When did you next see Mr. Caldwell?

A. I next saw Mr. Caldwell after the ballot in joint convention was announced—calling upon him in his room, where he was with a large number of gentlemen, a large company.

Q. In his room?

A. Yes, sir.

Q. What did he say?

A. Nothing in relation to this matter.

Q. Was anything said in his presence touching the subject of this examination—the payment of money, or corruption, or anything of the sort?

A. No, sir.

Q. When did you next see Mr. Caldwell when anything was said or agreed about this matter?

A. We left Topeka on the following day, on the next train.

Q. You say "we." Do you mean yourself and Mr. Caldwell?

A. I ought to say myself and most of the people left. Mr. Caldwell was on the same train with myself, and I saw him going down to Lawrence, where he changed cars for Leavenworth. I have been reminded since the investigation at Topeka, or rather my recollection was refreshed by circumstances, of the fact that, in going down from Topeka to Lawrence, Mr. Caldwell remarked to me on the cars, calling me from the seat I occupied in the front part of the car, that he would fix that matter up with Mr. Stevens.

Q. Did he say anything further?

A. No, sir; I do not remember that anything was said but that remark.

Q. Did you say anything to him?

A. No, sir; I do not remember that I made any reply to him. It was a mere incidental remark. About that time we reached Lawrence, and Mr. Caldwell got out to change cars and take the train to Leavenworth.

Q. Was that said in the hearing of anybody else?

A. No, sir.

Q. When did you next see Mr. Caldwell?

A. I do not remember that I saw Mr. Caldwell again until he came to Washington, just previous to the time he took his seat in the Senate, on the 4th of March.

Q. Did anything occur between you and Mr. Stevens, or any other party, in regard to this business of the expenses between these two periods?

A. No, sir; nothing whatever.

Q. You saw Mr. Caldwell. What was said or done then?

A. I cannot fix the time, but soon after he came here he remarked to me that Mr. Stevens had requested him, as I understood his remark, to pay the expenses at Topeka, and that he did not want to pay Mr. Stevens, but would like to fix the matter up with me. I remarked to Mr. Caldwell that any arrangement he had made with Mr. Stevens he must carry out with him. I ought to say that some matters had taken place in reference to some appointments in Kansas to make an unfavorable impression on my mind in reference to Mr. Caldwell, and I regarded his mentioning the subject to me as in the nature of a trick, to draw me into the matter, and was on my guard, and remarked to him that any arrangement made with Mr. Stevens, he must carry it out with him.

Q. What did he say to that?

A. I do not remember what his reply was.

Q. Did he assent to it or dissent from it?

A. I cannot say what he said. I have no impression left on my mind, only that that was the nature of the conversation.

Q. Where did this matter in regard to appointments occur—here or by letter?

A. It occurred here in Washington, and had reference to the appointment of postmaster for the city in which I reside.

Q. That was before this conversation?

A. Yes, sir.

Q. Had you and he differed about that appointment of postmaster?

A. Well, sir, I cannot give you an intelligent answer without giving you the history of the transaction.

Q. Just state it. It may have some bearing on this matter.

A. Before Mr. Caldwell left Topeka I said to him that the official term of the postmaster at Lawrence, Colonel John A. Rankin, expired in April, and I told him that I was anxious that a political friend of mine should be appointed, and would like to have him assist me in the matter. He said he would do so. When he came to Washington this was one of the first matters which came up. I remarked to Mr. Caldwell that I desired to have the appointment made, and inasmuch as the vacancy did not occur until the 7th of April, or some time in April, and that he could fix the matter up at his own convenience. He accompanied me to Senator Pomeroy's, and the substance of this conversation occurred in Senator Pomeroy's parlor and in Senator Pomeroy's presence, Mr.

Caldwell saying that he had agreed to support Mr. Clarke's friend for postmaster at Lawrence. Very soon after that Mr. Caldwell giving indications of receding from his position on this subject, and it becoming a subject of controversy, I went to see him on the subject frequently, being somewhat anxious about the matter. Notwithstanding he had affirmed his agreement in the presence of Mr. Pomeroy, he subsequently at the Arlington Hotel, where he resided, declined to recommend my friend for the position of postmaster, and did recommend the incumbent at that time. It was during these talks and discussions in reference to the postmaster that I had the conversation with him in reference to which I am now about to testify.

Q. Was there anything in this conversation in which Mr. Caldwell said he wanted to fix the matter up with you instead of Stevens in regard to the amount—any question raised in regard to the sum?

A. I do not remember that there was. As I have previously testified, I had remarked, without having a definite idea myself, that I supposed all the expenses incurred, meaning my own expenses and the expenses of Mr. Stevens's party, and Colonel Abell's party, and others, would amount to some \$12,000 or \$15,000—perhaps \$15,000.

Q. I remember that you have stated that.

A. Nothing was said, only this amount may have been mentioned; but I cannot say whether it was or not, but that was the general idea of the matter.

Q. That was the general idea?

A. Yes, sir. I carefully avoided, in this conversation with Mr. Caldwell, in regard to which I am testifying now and will testify further, making myself a party to this transaction. I regarded Mr. Caldwell's course as highly dishonorable and untruthful.

Q. In reference to the postmaster?

A. Yes, sir; and therefore I was very cautious in what he said to me in reference to the other matter.

Q. Is that all you recollect of that conversation?

A. Yes, sir.

Q. When did you have the next one?

A. I do not remember. In fact, Mr. Caldwell, in these calls which I made upon him in reference to the postmaster, mentioned the matter two or three times that he had not fixed up the matter but was going to do it—chiefly in the form of apology.

Q. That is the post-office matter?

A. No, sir; these other matters; and whenever I went to see him in reference to the post-office matter, he seemed anxious to introduce the other matter, on frequent occasions. I avoided it as much as possible, making the same general reply I have already stated.

Q. You say he said to you on several other occasions that he would do it?

A. Yes, sir; that he would fix the matter up with Stevens.

Q. Have you had any other interviews with him on that subject?

A. Yes, sir; I went to see him at his rooms. The interview that I distinctly recollect, that made the most impression on my mind, occurred at his room, I think on F street, somewhere near the Ebbitt House, if I remember aright.

Q. When?

A. Whether it was in the spring, or at the session called to ratify the Alabama treaty, I cannot remember, but one or the other. If I remember aright, there was a session called to consider the Alabama treaty. It was sometime during the spring or summer of that year. Upon re-

flection, I am mistaken in this statement. I have located the place wrongly, and I will ask to correct in regard to F street. What is the street passing the Arlington hotel?

Mr. ANTHONY. That is H street.

The CHAIRMAN. Now begin and state where your next conversation with him was in regard to this matter.

A. The next conversation I had with him was at his rooms on H street, near the Arlington Hotel. I had met him at the Capitol, and he remarked to me that he was going away and that he would like to have me call and see him. My recollection now is, since I have commenced to make the statement, that the Senate had adjourned and he was to leave for home. I called at his rooms and he was packing up his things, and I went into his back room, where he was engaged in packing his trunks. He commenced a conversation with me in reference to this Stevens business and the agreement which he had made with Stevens in reference to the payment of the expenses, and I replied to him in some general terms as I had before, being upon my guard, as I have said, and regarding the matter as an effort on his part to compromise me. He indulged in a good deal of conversation, apologized for not effecting the settlement with Stevens, and said to me that the election had cost him \$75,000 in money, and that he was very poor in ready money, and that some railroad companies had agreed to pay him or to pay a portion of his expenses, and that as they had failed to make good their agreement with him he was watching an opportunity for them to get some measure before Congress so that he could squeeze it out of them, and he gave that as a reason why he had not complied with his agreement with Stevens.

Q. What railroad companies did he name, if any?

A. He did not name any railroad company.

Q. Do you know what railroad companies he referred to?

A. I am satisfied in my own mind what he referred to. In consequence of other information I am satisfied that he referred to the Kansas Pacific.

Q. Any other road?

A. I do not know that he did.

Q. You spoke of railroad companies.

A. Well, railroad companies, perhaps. Whether he used the word "companies" I do not know.

Q. He referred to it?

A. His language was of such a character that I understood it to mean the Kansas Pacific Company.

Q. Did he state how much expense they were to bear, or how much he expected them to pay?

A. No, sir; he stated what the election had cost him, and said that the railroad company had agreed to pay a portion of the expenses.

Q. Did he state what officer or officers of the company had made the arrangement?

A. I do not think he did. I was myself already acquainted, from some of the parties connected with the railroad, with the demands he had made on the company, and I accepted the statement as true, and there was no further conversation about it.

Q. You say you had information already of what demands he had made upon the company. Was there any officer of the railroad company at Topeka during this election; the president or any one representing it?

A. O, yes, sir; they were some of the chief parties in interest in securing the election of Mr. Caldwell.

Q. At work for him?

A. Yes, sir.

Q. Who was the president of the company?

A. John D. Perry, of Saint Louis.

Q. Was he there?

A. No, sir; I think not.

Q. Who represented the company there?

A. T. J. Anderson, the agent at Topeka, and Colonel E. W. Dennis, the attorney of the railroad, who has his office there at Topeka.

Q. Who else?

A. I think Mr. Noble, the superintendent of the eastern division of the road.

Q. Have you any personal knowledge that these gentlemen were there for Caldwell?

A. Yes, sir; I saw it on every hand and on every possible occasion. It was a matter of common notoriety.

Q. Mr. Caldwell spoke of some measure in which he might squeeze it out of them. Did he mention the matter?

A. No, sir; he spoke quite bitterly of them, and said he would squeeze it out of them when the time came.

Q. You say he said it had cost him \$75,000?

A. Yes, sir; and he went on and spoke of the condition of his affairs, of his property at Leavenworth, &c., and that his election had cost him so much money, and he added that he had been looking around for an opportunity of making some money, but he did not think from his experience thus far that there was as good a chance to make money in the Senate as outside. I told him that was my opinion exactly.

Q. Did he say he was poor?

A. He spoke of the large amount of money the election had cost him, and he spoke of his property and the election having taken his ready money. The conversation was quite a familiar one.

Q. Did he tell you how the money was expended?

A. No, sir; he did not go into details.

Q. Did you understand that he had expended \$75,000 outside of what he was to pay of the expenses of your friends?

A. I had no understanding outside of the general statement.

Q. Was the general statement that he had expended that amount, or that when he paid this it would make that amount?

A. He did not make that distinction.

By Mr. HILL:

Q. Did he say that it had cost or would cost that much?

A. That it had cost him that, was his expression.

By the CHAIRMAN:

Q. Did you understand that as being a statement of what had actually occurred, or a statement to you made with a view of putting off the claim of Mr. Stevens, or of making the thing easier? How did you understand it?

A. Well, sir, in consequence of my general knowledge, obtained, as I said before, from members of the legislature and from the whole transaction—from the open and undisguised character of the transaction at Topeka, and the unanimity of opinion on the part of men of all parties that were there, and friends of different candidates, that Mr. Caldwell's election was the result of the use of money, and understood to be se-

cured by the expenditure of money; I had nothing else in my mind. I never had any other opinion. I did not then, and have not now.

Q. You did not understand it, then, as an attempt made to put you off?

A. No, sir; I think he was telling about the truth.

Q. What else occurred during that conversation? Did you come to any agreement about what was to be done?

A. No, sir; there was no agreement at all. As I said before, I was guarded in the conversation, regarding it as an attempt to implicate me in consequence of the difficulty that had occurred about the other matter, but my recollection is, although I would not swear distinctly, that he said he was going to Philadelphia, and should be home in a short time, and would fix that matter with Mr. Stevens by July. That reminds me that this conversation must have been some time previous to July.

Q. He would fix it by July. Did you separate with that understanding?

A. Well, sir, the conversation was carried on on his part chiefly. I cannot say that I had any understanding about it. I believe, as I stated before, that Mr. Caldwell had no intention of fulfilling his obligation to Mr. Stevens, judging from the manner in which he had treated me in the post-office matter, and I separated from him with the idea that his talk was simply for the purpose of misleading me.

Q. Did you make any statement to him during that conversation as to what your expenses were, or the expenses of your friends in that matter?

A. I do not think that the matter was talked over. Whenever it was talked over, however, I gave my idea without positive knowledge, because I did not make the arrangement myself. As I have stated already, I thought about \$15,000 had been expended in the canvass and the expenses incurred by these various parties.

Q. What do you mean by the canvass; do you mean before the election?

A. No, sir.

Q. The canvass for the Senate after the election?

A. Yes, sir.

By Mr. TRUMBULL:

Q. The canvass before the legislature?

A. Yes, sir; I mean those expenses.

By Mr. HILL:

Q. Expenses incurred after the meeting of the legislature?

A. Yes, sir; although I desire to say that I do not know at this time what these expenses were, because I paid only a small portion of them

By the CHAIRMAN:

Q. How much did you pay?

A. I paid through Mr. Adams, who made the arrangements, as I stated.

Q. How much?

A. I think I paid somewhere in the neighborhood of \$4,000; perhaps between four and five thousand dollars.

Q. To whom did you pay it?

A. Twenty-five hundred dollars I deposited with Mr. Adams, who made the arrangement for the rooms with one or two other gentlemen associated with him, in his bank at Topeka, which money he used to pay McMechin of the Tefft House and others, and when the balance

was made up by Mr. Adams he sent me an account, and I gave him a note for about \$1,800, a portion of which is still due from me as a personal note in the Kansas Valley Bank at Topeka.

Q. Those two sums made up the \$4,000?

A. Yes, sir; those that I paid personally; what Mr. Stevens and Colonel Abell, and others of my personal friends who assisted, paid I do not know, and have never known to this day.

Q. Have they never made a statement to you?

A. No, sir.

Q. When did you next see Mr. Caldwell, after that meeting on H street, on this subject?

A. I might have seen him as I see gentlemen passing.

Q. I ask you as to conversation on this subject.

A. I think I met him or called him out of the Senate to consult with him in reference to post-office matters, or perhaps not. I cannot fix dates; perhaps the postmaster may have been appointed at this time, and I may have called him out on some other business; but I recollect that—either calling him out of the Senate or meeting him at the back lobby of the Senate.

Q. By the way, was your friend appointed?

A. Yes, sir; I went to the President and stated the case to him about as plainly as I stated it to you gentlemen, and he said he should be appointed, and he was appointed. He was appointed against Mr. Caldwell's recommendation, and also that of the member of Congress in the other branch.

Q. Did Mr. Caldwell recommend the other man?

A. Yes, sir.

Q. When Mr. Caldwell was called out of the Senate was anything said to you about these expenses?

A. Yes, sir; he mentioned the subject again. In fact, he put it at me in such a way that my suspicion of his motives were renewed, and I said to him very plainly and distinctly that whatever arrangement he had made with Stevens, it was but fair and honorable that he should pay it.

Q. Did you bring the matter up or did he?

A. He did.

Q. Did he bring it up in his room in H street also?

A. Yes, sir.

Q. Then he brought it up every time?

A. Yes, sir. I called upon him in regard to several matters. There was a matter pending that I ought to mention, to make a full statement. What I say in reference to my calling upon him about the post-office matter may not be strictly true, because, at the same time, a collector of internal revenue in Kansas had got into difficulty, and a proposition was made to the Treasury Department to effect an adjustment. The gentleman was a friend of mine, and it was a very important matter as we regarded it, and we frequently called on Mr. Caldwell to get his assistance in order to adjust it in the Treasury Department. In some of these conversations I may have called upon him for that purpose, and in others in reference to the postmaster. I simply give these facts as the reasons why I wished to see him.

Q. In this conversation when you called him out of the Senate, you say you brought this subject up, and you told him that after he had made an arrangement with Mr. Stevens he was in honor bound to carry it out. What else was said? Did he say he would do it?

A. Yes, sir; whenever he brought it up with me his general idea was

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one of an apology, on the idea that somebody might think he was not an honorable man, and did not fulfill his agreements.

Q. Was that all that occurred about it in that conversation?

A. I believe so; all that I recollect.

Q. Did you have any conversation since on this subject?

A. No, sir; I do not speak to him when I see him.

Q. Have you had any conversation with him since about any subject?

A. I do not think I have. During the time I was in Washington it is possible I may have met him. I think I went home about that time, and very soon after that, in consequence of his general course, I ceased to have personal conversation with him, and have continued so to this time.

Q. Did he ever arrange that matter with Mr. Stevens?

A. Not to my knowledge.

Q. Has he ever seen Mr. Stevens on the subject?

A. I cannot say.

Q. Did Mr. Stevens ever call upon him?

A. I do not know.

Q. That is the end of that matter, so far as you know?

A. It is. I ought to say I met Mr. Stevens some time during the summer on a public occasion, near my own city, and Mr. Stevens and myself made some remark about the matter, and Mr. Stevens informed me that he had not adjusted the matter.

Q. Where did Mr. Stevens live?

A. Well, sir, he is the general manager of the Missouri, Kansas and Texas Railroad. He formerly resided in Kansas, but his general headquarters are now at Sedalia, Missouri.

Q. Was he frequently in Leavenworth?

A. The most of his road was in Kansas. He was frequently in the city.

Q. Was he in Leavenworth, where Senator Caldwell resides?

A. In Leavenworth? No, sir; I do not think Mr. Stevens frequently visits Leavenworth, but occasionally, I presume.

Q. Is there any other conversation, or anything else that you have ever heard Mr. Caldwell say in reference to the question of the use of money at that election or connected with the election? Have you stated all his conversation upon that subject, so far as you know?

A. Well, sir, I think so, so far as I remember now. Some two years have passed away, and there may have been other conversations, but, if so, they were of the same general character.

Q. State what you know, if anything, in regard to the use of money corruptly by Mr. Caldwell during that election. What knowledge have you of it?

A. Well, sir, I do not know.

Q. Do you know of his paying any money, or anybody paying it on his behalf, to any member of the legislature?

A. I was informed by a member of the legislature of an offer to pay money. Shall I testify in regard to it?

By Mr. HILL:

Q. Is that member alive?

A. Yes, sir.

By the CHAIRMAN:

Q. What is his name?

A. Bond.

Q. Where does he live?

A. He is now the register or receiver in Salina, Kansas.

Q. He is summoned as a witness?

A. I believe so. His declarations to me were made in the presence of other gentlemen.

By Mr. HILL:

Q. Name the other person who was present.

A. Mr. Daniel M. Adams.

By Mr. TRUMBULL:

Q. Name the time and place, without giving the conversation with Mr. Bond.

A. This conversation was had in my room, as near as I can recollect, two or three days before the vote, and in the presence of Major Daniel M. Adams, president of the Kansas Valley Bank, Topeka, Kansas.

By the CHAIRMAN:

Q. The Mr. Adams you have spoken of is your friend?

A. Yes, sir.

Q. Has any other person told you that Mr. Caldwell used money or proposed to use money?

A. I have a letter here from Ex-Governor Carney, of Kansas, written to me after the testimony taken before the Kansas legislative committee was presented to the Senate, and before the Senate had taken any action on that question. It was voluntarily written to me from Saint Louis, with the information that I could show it to individual Senators for their information, at my discretion, making important statements in reference to the direct use of money by Mr. Caldwell. I have the letter in my hand.

Q. Did he say within his knowledge?

The CHAIRMAN. Governor Carney is summoned as a witness, and I suppose it would not be proper to admit his letter in testimony. [The witness here hands the letter mentioned to the chairman, who peruses it.] This letter will show that Governor Carney's testimony is important, but I think it would not be proper to admit the letter itself as evidence, inasmuch as Governor Carney is summoned to appear.

By the CHAIRMAN:

Q. Did any other person make any statement, either by letter or orally, that Mr. Caldwell had used money?

A. Yes, sir.

By Mr. TRUMBULL:

Q. This is for the purpose of furnishing the committee with means to get at the fact?

A. Yes, sir. I have frequently had conversation with Major T. J. Anderson, of the Kansas Pacific Railroad, in reference to the subject.

Q. Was he one of the persons you named as being present at the election?

A. Yes, sir.

Q. Was he the agent of the road there at that time?

A. Yes, sir.

Q. He made statements to you to the same effect?

A. Yes, sir.

Q. That money had been improperly used?

A. Yes, sir; and that he had a personal knowledge of the matter and

had acted in the capacity of disbursing money. He said to me, however, frequently, that Mr. Caldwell was owing him quite a large sum of money, and that he had great difficulty in getting his pay and wanted to get his pay; and he has frequently said to me and others, as is a matter of common notoriety in Kansas, that he first wished to get his pay out of Mr. Caldwell, the money he had expended, and that Mr. Caldwell had agreed to pay him for the business he had done at the senatorial election, and that then he would tell all he knew about the matter. He was absent from the State at the time of the investigation at Topeka.

By the CHAIRMAN :

Q. Are you familiar with the handwriting of Governor Carney?

A. Yes, sir; I have several letters from him.

Q. Do you state that to be his signature? (Referring to the signature to the letter above mentioned.)

A. Yes, sir.

Q. Will you leave this letter with the committee?

A. Well, sir, it is in the nature of a private letter. I will remain in attendance, and will produce the letter at any time for the committee.

Q. Did any other persons make a statement to you that they knew of the use of money by Mr. Caldwell?

A. Yes, sir; Judge William Sprigg, of Anderson County, Kansas, stated to me last spring that he had knowledge, as I understood him to say, of the direct payment of money.

Q. He has been summoned. Do you know of any other person?

A. No, sir; not exactly in that form. I had a letter recently from Mr. John Fletcher, of Topeka, Kansas, which I think I furnished to the clerk of this committee, or referred it to the chairman, perhaps, stating that he had knowledge. The letter showed that he desired to tell what he knew about the matter. I do not know that it said that he knew directly of the payment of money.

Q. He has been summoned. Do you know of any other persons?

A. Mr. Carson, of Anderson County, Kansas, now residing in Lawrence, Kansas, has frequently told me of a transaction which appears, however, in the record before the court?

Q. He has been summoned. Do you know of any other person?

A. I do not remember at this moment.

Q. Now, Mr. Clarke, is there any other fact that you know in connection with this matter which the committee ought to know, and which I refer now to your own memory and judgment, that we have not particularly interrogated you about?

A. Well, I have given to the committee, as far as I can at this long time after the transaction, a detailed history of my information about the matter. I cannot now recall, unless I refresh my recollection by looking at the record, any important matter that has escaped my attention.

Q. Is Mr. Caldwell represented to be a man of wealth?

A. Yes, sir; that is his general reputation.

Q. What is or has been his business?

A. Well, sir, he is regarded in our State, or was previous to his election to the Senate, as a speculator.

Q. Has he no regular business in Leavenworth?

A. Not to my knowledge. He might have without my knowledge. I ought to say I am speaking now in answer to your question of his general character by general report, whatever it is worth.

By Mr. TRUMBULL:

Q. Is there any fact within your knowledge that you have not mentioned that would put the committee on inquiry to ascertain whether money had been used to procure the election of Mr. Caldwell?

A. In answer to your question I will say that this record which I hold in my hand [investigation by the joint committee of the Kansas legislature] is a very long one; that a great number of persons were called before the legislative committee, and that I can think of nothing now independent of this record which would give this committee any further information.

Q. You stated in your testimony—

The WITNESS (interposing.) I want to answer, if it is proper for me to answer further, that an examination of the brief of this testimony, or the testimony itself, will suggest to the minds of the committee many points which necessarily cannot be included in any individual statement.

Q. You stated in your testimony that Mr. Caldwell's strength had been procured by the use of money?

A. Yes, sir.

Q. And that you stated so to him?

A. Yes, sir.

Q. Upon what did you base that statement at that time?

A. I based my statement upon the fact, first, of his general character as a man at the time of his entering into the senatorial contest, which was after the election of the members of the legislature, and previous to the meeting of the legislature; also the fact that Mr. Len. T. Smith, who has been for years in one way or another his business partner, avowed, and publicly avowed, I might say, in different parts of the State, and also about the legislature, that they, (Mr. Caldwell and himself,) as he stated it, had the money, and they were bound to have the Senatorship even if it cost them \$250,000.

Q. You have not mentioned this name of Smith before?

A. Yes, sir; I should have mentioned it if it had not escaped my recollection.

Q. Has he been a business partner of Mr. Caldwell?

A. Yes, sir; for many years.

Q. Go on, now, and state upon what you based that statement.

A. Also upon Mr. Smith's general declarations, upon the general sentiment expressed, and declarations of Mr. Caldwell's leading friends, that the politicians were corrupt; that the legislature could be bought, and that they were going to do it. I might add at all points, upon all occasions, and I do not now remember any members of the legislature who consulted with me with whom I was familiar, in ordinary conversation, but were possessed of the same idea. It was daily repeated, almost hourly, that money was in use and to be used to secure the election of Caldwell. I was also informed during the progress of the election, by Mr. Adams, who was a friend of mine and president of the bank, of currency being drawn upon checks by different parties in the interest of Mr. Caldwell, and all these things united in enforcing upon my mind the inevitable conclusion that Mr. Caldwell's canvass was based upon nothing else than the confidence and ability of himself and friends to purchase enough votes to secure his election.

Q. Was he represented at that time to be a man of wealth?

A. O, yes, sir.

Q. Have you any knowledge or any traces of the use of money except to what you have just testified—of any checks being drawn through this bank, of which Mr. Adams was president?

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A. Yes, sir; if I may be allowed to answer as it has come to me. In the first place, I was informed of a check of \$10,000 being drawn from the Kansas Valley Bank and currency given for it to this Mr. Anderson whom I have mentioned.

Q. On the Kansas Valley Bank?

A. Yes, sir; the Kansas Valley Bank.

Q. Are there any officers of that bank summoned here?

A. Yes, sir; Mr. Adams is. I also had information of another check of \$7,000 drawn by Len. T. Smith, and indorsed by Governor Carney, on the Kansas Valley Bank.

By the CHAIRMAN:

Q. You spoke of information as to these checks.

A. Well, sir, Mr. Adams was a friend of mine, and he informed me from time to time of what was going on, and subsequently this was developed in this testimony of which I have spoken.

By Mr. TRUMBULL:

Q. I do not care to bring out anything that you learned from Mr. Adams or his bank, as he is to be here, but I ask whether you know of any traces of the use of money outside of that which you learned as coming through this particular bank. Did any member of the legislature have an unusual amount of money, and if so who, at that time?

A. Well, sir, I do not know.

Q. My point is this: if there was any unusual use of money by parties in the interest of Mr. Caldwell there at that time?

A. Well, sir, I can only answer from all the evidence which came to me.

Q. That is general, and would not enable the committee to trace it at all.

A. Then I will answer it another way. I have already answered in reference to the case of Mr. Bond. Information reached me from various sources of the payment or promise to pay of debts owed by different members of the legislature.

Q. Now, can you give us any particular cases?

A. Yes, sir; I had information then and since then that a debt owed by a firm of which Dr. McCartney, a member of the legislature from Neodesha, Wilson County, was a member, was paid by Mr. Caldwell or his agents to some firm in Leavenworth.

Q. Dr. McCartney is summoned. Is any member of that firm to whom you understand that to have been paid summoned?

A. I do not know, sir.

Q. Can you give the name of any of that firm to whom it was paid?

A. No, sir; I think Governor Carney can give the information.

By the CHAIRMAN:

Q. Do you know the name of any of the firm?

A. No, sir; Governor Carney gave me a detailed history of the transactions of this character more than a year ago, covering quite a large number of cases; but the particulars have escaped me.

Q. Who were the candidates for the Senate? How many were there?

A. As sometimes happens in our country, there was quite a large number.

Q. Was Governor Carney a candidate?

A. No, sir; I should hardly regard him as a candidate. I was a candidate, Ex-Governor Crawford, Thaddeus H. Walker, Alexander Caldwell, and an almost innumerable number of gentlemen.

Q. How many votes had Mr. Crawford?

A. I think in joint convention he had 36.

Q. But before that?

A. I cannot remember. It is in the record, which is before the committee.

Q. How many votes had you?

A. I had 27 in the separate houses.

Q. Were there any votes cast for Governor Carney?

A. I think not.

Q. Had he or not been spoken of as a candidate?

A. O, frequently. He had been a candidate before previous legislatures.

Q. Was he there?

A. Yes, sir; and actively engaged in securing Mr. Caldwell's election.

Q. Had Mr. Caldwell been prominent in politics before this time?

A. No, sir; I do not think that more than half of the members of the legislature knew to which party he belonged at the time he became a candidate for the Senate.

Q. Had he ever held any other office in the State?

A. No, sir; I think not.

Q. Had he ever been a candidate?

A. No, sir; not to my knowledge. He might have been a candidate for some local office at Leavenworth outside of my information. I am only answering you in a general sense now.

Q. What is the aggregate vote of the legislature?

A. About 125 at that time.

By Mr. CALDWELL:

Q. Mr. Clarke, you referred in your testimony to having received a note from me.

A. Yes, sir.

Q. Are you sure that note was from me?

Q. I stated in my testimony I received a note from you, or some one of your immediate friends.

Q. You are not sure it was from me, are you?

A. No, sir; I am not sure. I ought to say that in that note the room was mentioned where I was to meet Mr. Caldwell, and on entering the room I found him there.

Q. You do not know whether it was signed by me or somebody else?

A. No, sir; I do not.

Q. Who delivered to you that note?

A. I could not say. It was handed to me while I was at tea at the Tefft House. A large number of persons were in the dining-room at the time.

Q. Were you at that time acquainted with my handwriting?

A. Yes, sir; I had seen it frequently.

Q. What did the note say or purport?

A. It asked for a personal interview with you at a certain room in the Tefft House, and going there immediately and finding you, I naturally concluded that it was sent in good faith.

Q. What did you do with the note?

A. I might have torn it up or put it in my pocket.

Q. Where did you receive the note?

A. Sitting at the table, as I have already stated.

Q. Do you know S. N. Strickler?

A. S. N. Strickler? I do not know any such man.

Q. Do you know S. M. Strickler, a member of the legislature?

A. Yes, sir.

Q. In what capacity was he at Topeka at the time of my election?

A. He was there in the capacity of a member of the legislature from Davis County.

Q. Was he or not one of your principal supporters?

A. He was one of my supporters.

Q. Did he, in the joint convention, withdraw your name?

A. Yes, sir; my recollection is that he did.

Q. Did you not authorize him to do so?

A. Yes, sir; I did.

Q. And request your friends to vote for me?

A. No, sir; I protested to the last moment, but they did not see fit to take my advice, and consequently most of them voted for you, although I am happy to say there were some exceptions.

Q. Did he not say, in that speech in which he withdrew your name and nominated me, that he did it with your full concurrence?

A. Oh, he withdrew my name with my concurrence, as I have already stated. After the Atchison delegation had decided to go for you, I made my final protest.

Q. I ask you to answer my question, if he did not say in that speech with your concurrence he now withdrew your name and asked your friends to go for me?

A. I have not read it recently. The speech can be found in the newspapers. I have no doubt it was a very good one. He is an excellent man and capable of making a good speech.

Mr. CALDWELL. I have it, and would like to have it in evidence. [See page 35.]

By the CHAIRMAN:

Q. Who placed Mr. Caldwell in nomination in the joint convention?

A. I do not remember.

By Mr. CALDWELL:

Q. I understand you to say that Mr. Strickler was authorized to withdraw your nomination?

A. Yes, sir. When the Atchison delegation decided to support you, I regarded my defeat as inevitable, and consequently did not desire to have my name go into the joint convention; and I announced to everybody about me that I had been beaten by money.

Q. I am not asking you that, sir.

A. With the permission of the committee I will give my own answer.

Q. I ask you whether Strickler did not, with your consent, ask your friends to vote for me?

A. I heard you remark just now that you had the speech there. Not having read it for a year, it is quite likely it is so.

Q. Do you know what considerations influenced Mr. Strickler to that course?

A. No, sir, I do not; only I think the most honorable considerations, for he is a very honorable gentleman.

Q. What were our personal relations at that time—at the time this thing was done?

A. Personal relations?

Q. Yes, at the time of my election.

A. Well, sir, you have asked me a very hard question. I had very little confidence in you, very little, indeed; and while I treated you as

I try to treat all gentlemen, pleasantly and agreeably, I distrusted you at every step.

Q. What are they now?

A. Well, sir, I regard you as being a very unreliable, dishonorable man, much to my regret.

Q. Did you not say to some of your friends at that time that you had elected me and that I was a very honorable and clever man? Did you not make that statement?

A. No, sir; I do not think I did violence to my judgment to that extent.

Q. You have spoken of Smith as being my agent. How did you know he was an agent of mine?

A. By general reputation and frequent declarations from everybody that he was there to secure your election, and his general declarations that he would secure it at all hazards; also my information from Governor Carney that he was in frequent conversation with you and Mr. Smith, and that you indorsed and recognized what Mr. Smith had done.

Q. You have spoken about a post-office and about the appointment of Mr. Shimmons to the post-office at Lawrence?

A. Yes, sir.

Q. Please state the date of that appointment, or about the time that Shimmons was appointed.

A. My recollection is that it was during the first half of the month of April—I think the 8th or 9th of April.

Q. That was in 1871?

A. Yes, sir.

Q. The April after my election?

A. Yes, sir; soon after the commencement of your official term.

Q. That was the post-office matter you alluded to that made some difference between us?

A. Yes, sir; I regarded your course as being very extraordinary.

Q. That was settled then in April. You say you called on me subsequent to that?

A. Yes, sir.

Q. What business had you with me after that?

A. The matter of the internal-revenue collector, Mr. John Speer, and the compromise of which induced me to call upon you. Mr. Speer was here and informed me that you had taken him by both hands at Topeka and said that if you were elected you would use all your official influence to get him out of trouble, and Governor Carney and Mr. Osborn, now the governor-elect of Kansas, were here, and believing Speer to be an honest but unfortunate man, were anxious to have him relieved, and I called upon you frequently, at their solicitation, to get your recommendation that a compromise of Speer's difficulties might be effected at the Treasury Department. You told me at first that you would not, under any circumstances, allow Speer to suffer, believing him to be an honest man, but subsequently you declined to do anything. I ought to add that your course in reference to that matter made me doubly distrustful of you.

Q. You have said that several times, but I have no objection to your saying it.

A. I wish to enforce the truth of it.

Q. Did you not, about a year ago, call me out of the Senate and talk to me?

A. At what time?

Q. About a year ago. Do you recall the conversation you had with me at any time?

A. Do you refer to the conversation in reference to which I have testified already?

Q. Yes, sir.

A. I have already testified that I either sent a card to you to see you on the Speer matter, or some other matter, or met you in the lobby of the Senate and had a conversation with you, in which you apologized for not settling the matter with Stevens, and in which I told you that if a man made an agreement he ought to live up to it.

Q. Do you recollect when this Speer matter was settled or compromised?

A. I do not. The records of the Treasury Department will show.

Q. Is it not more than a year ago?

A. Most likely.

Q. Was it not at the session immediately after my election?

A. I have answered that. I do not remember exactly.

Q. That it is eighteen months ago?

A. Yes, sir.

Q. Did you not, at the time you sent your card to me in the Senate, and when I came out to see you, tell me you desired me to pay you \$15,000?

A. No, sir; I did not. On the contrary, you commenced the conversation about the matter, as you had frequently done before, but in the way of apology, and I remember now, since you ask the question, that you said you had always been regarded as an honorable man, and you were going to fix that matter up with Stevens.

Q. Did you not tell Mr. Abbott, of Kansas, J. B. Abbott, that you intended to get \$15,000 out of me?

A. No, sir; I never made any such declaration. I do not know that I ever had any conversation with Mr. Abbott on that subject.

Q. Were you my competitor at Topeka? I believe that has been testified to.

A. I was a candidate for the Senate.

WASHINGTON, D. C., *Friday, January 10, 1873.*

J. M. LUCE sworn and examined.

By the CHAIRMAN:

Question. Where do you reside?

Answer. At Centropolis, in Franklin County, Kansas.

Q. Were you a member of the legislature which elected Mr. Caldwell Senator?

A. Yes, sir.

Q. To which house did you belong?

A. To the lower house.

Q. State what you know, if anything, in regard to the corrupt use of money or other corrupt considerations on the part of Mr. Caldwell to procure his election.

A. Of my own knowledge I can't say I know anything.

Q. You do not know anything on the subject?

A. No, sir.

Q. Did you ever hear Mr. Caldwell say anything on that subject?

A. I never heard Mr. Caldwell say a word in regard to the subject of money or other corrupt influence.

Q. Was any offer ever made to you by Mr. Caldwell, or on the part of any of his friends, if you would vote for him?

A. I think not.

Q. You think not?

A. I do not know who Mr. Caldwell's friends were; but none that I know.

Q. Was any offer of money made to you to vote for Mr. Caldwell or any other person?

A. No, sir. Not for Mr. Caldwell nor any other person direct.

Q. No offer for or in regard to any other person whatsoever? I ask this question because it may be important, if such an offer was made, to know by whom the offer was made and in whose behalf.

A. Well, there seemed to be intimations that a man could make money to vote for some other parties there, but I don't know that any man made any direct offer. There might have been innuendoes or insinuations.

Q. Who made those insinuations or intimations?

A. Well, George A. Reynolds made some.

Q. Who was he?

A. Mr. Reynolds, I supposed, was working in the interest of Mr. Clarke.

Q. What did he say? Please state to us frankly.

A. Well, it was simply innuendoes or insinuations that I could make money out of my vote if I desired, or something of the kind.

Q. Did he tell you how or how much?

A. I don't know that he did.

Q. Or who would pay it?

A. No; he seemed to be just simply giving it to me as a matter of information.

The CHAIRMAN. I will ask a question in reference to a statement said to have been made by this witness to Mr. Clarke, by the record which lies before us. We have, as yet, laid no foundation to contradict him, but I presume it is proper to ask this witness the question at this stage, and we can give Mr. Clarke a chance to respond. (To the witness.) State whether you told Mr. Clarke or said in his presence that you would vote for whoever would give you the most money.

A. I think I never made the remark. I do not think I ever made the remark.

Q. In the report of the committee of investigation of the Kansas legislature, on page 34, in the testimony of Mr. Clarke, occurs this passage:

"By the CHAIRMAN:

"Q. Do you know Luce, of Franklin?

"A. Yes sir, I do.

"Q. Do you know whether or not he received any money for his vote?

"A. No, sir. I only know what his public declarations were, such as were known to everybody.

"Q. Well, go on and state what they were.

"A. That he would vote for whoever would give him the most money."

Now state whether you ever made such a statement in the presence of Mr. Clarke or anybody else?

A. I can't state that I ever made such a statement; or if I did it was

without weight—without anything in it to be understood that way. I have no recollection of it.

Q. For whom did you vote?

A. For Alexander Caldwell on the first and second ballots.

Q. Did you state to Mr. George A. Reynolds that Caldwell's people offered twenty-five hundred dollars, and you were going to vote for him if you could not do better?

A. I never used the language that is used there by Mr. Reynolds. In a jocular way I might have said to Mr. Reynolds—for I was very familiar with Mr. Reynolds, and had known him for many years—in a jocular way—a good deal was said about money being used. If I did say anything, he asked me the current price of votes, or something like that, and I told him about twenty-five hundred dollars, and asked him if he could raise it; but it was not with any intention of anybody supposing that the thing was earnest, but simply a conversation between two parties that way.

Q. Do you know of any use of money on the part of Mr. Caldwell or his friends?

A. I do not; not to influence votes.

Q. In any way?

A. I presume they paid for their cigars and matters of that kind—that is, his friends; but I don't know how many were his friends. I know of no money used, except that way.

Q. Do you know of any money used to pay debts of members of the legislature in order to procure votes?

A. I never heard of any.

Q. You state that you voted for Mr. Caldwell?

A. Yes, sir.

Q. How long had you known him?

A. I first became acquainted with him when I was here as a clerk for this committee.

Q. Which committee?

A. Committee on Public Lands.

Q. You saw him here then?

A. Yes, sir.

Q. Was he here at that time?

A. Mr. Caldwell was here a short time then, at the hotel, and I met him.

Q. Have you had any business transactions with him?

A. No, sir; none whatever.

By Mr. TRUMBULL:

Q. Did you go to the legislature as an original supporter of Mr. Caldwell.

A. An issue was attempted to be made in our district of Clarke and anti-Clarke. The regular nominee of the Republican party published a card saying he would support Mr. Clarke. I came out in opposition to him as an opposition candidate, and was elected as an opponent to Clarke.

Q. Were you committed to anybody when you went to the legislature?

A. No, sir.

Q. Were you committed to anybody before the vote?

A. I think I was very cautious.

Q. Did any one know how you were going to vote before you voted?

A. Perhaps they did.

Q. Who?

A. I don't know. I might have expressed my opinion as to how I should vote to some of my friends. I don't remember how that might have been.

Q. Was any influence brought to bear upon you to get you to vote one way or the other?

A. I do not know that there was more than would naturally be brought to bear, as by men speaking well of Mr. Caldwell. His friends say he was worthy of the position, and so on; but no corrupt influence, nothing like the corrupt use of money or offers of office, for I desire no office in the Government.

Q. Have you no information of the means to promote the election of Mr. Caldwell on the part of Mr. Caldwell or any persons reported to be acting as his friends?

A. I don't know that I have, more than what would naturally be used at any election.

Q. Was there any unusual amount of money among the members of the legislature?

A. I did not see any. As far as I was concerned I did not have any unusual amount.

Q. Did you know of any others having any?

A. I did not.

Q. Did you see any used?

A. I never saw Mr. Caldwell have a dollar in my life.

Q. Did you see any of his friends have any?

A. I do not know that they had. I generally paid my own bills.

Q. Did you see them using money in any way about the legislature?

A. I might have seen them, perhaps, pay for an oyster-supper or cigars.

Q. Pay for an oyster-supper in his interest?

A. No, sir; I can't say that. But I might have seen them pay for an oyster-supper. I might have seen them hand the money, but I can't say.

Q. Did you know of their furnishing lodgings, or paying for hotel bills or supplies of any kind?

A. No, sir.

Q. You have no knowledge or information of any of Mr. Caldwell's friends furnishing accommodations at all for anybody?

A. I have no knowledge of that kind. I went into a room, and the landlord told me——

Q. I did not ask what anybody told you. You say you have no information leading you to suppose that any accommodations, hotel or otherwise, were furnished by friends of Mr. Caldwell?

A. I have no knowledge of that kind.

Q. That was not the kind of a question I asked you. Have you any information of hotel accommodations, or any other, being furnished by the friends of Mr. Caldwell pending that canvass?

A. I have no knowledge of any.

Q. Can you answer my question?

A. The question is whether I have any information?

Q. Have you any information on that point? You reply by saying you have no knowledge. I think you are capable of understanding a question.

The WITNESS. I think I am. You do not wish me to state what I heard people say?

Mr. TRUMBULL. I want to know your information ; whether you got it from so and so, or who, I did not ask you.

The WITNESS. You ask whether Mr. Caldwell, or any member——

Mr. TRUMBULL. No, sir ; I did not ask you that. I asked you if you had any information of hotel accommodation or otherwise furnished by the friends of Mr. Caldwell or himself?

A. I have no information of the kind.

Q. Have you no information of any of Mr. Caldwell's friends providing accommodations at hotels or otherwise for parties during that canvass?

A. I have not. I know my own hotel bills I paid myself. I know of no other member who did not do the same, or outsider either.

Q. Did Mr. Caldwell have headquarters there?

A. Yes, sir ; he had rooms he called headquarters.

Q. More than one room?

A. I think he had.

Q. Not more than two?

A. I do not know how many he had.

Q. Did you know Len. T. Smith?

A. Yes, sir.

Q. Was he there?

A. Yes, sir.

Q. Did he have rooms?

A. He was generally in a room.

Q. Do you know of his having more than one room?

A. No, sir.

Q. You do not know of private rooms furnished for anybody?

A. No, sir. I think I have heard rumors that some of the senatorial candidates had rooms engaged, but I don't know that I can tell you the source.

Q. But you have no knowledge of any friends or parties in the interest of Mr. Caldwell engaging rooms, he paying for them, or for hotel accommodations at all?

A. No, sir.

Mr. CLARKE. With the permission of the chairman, I would like to ask a question or two.

The CHAIRMAN. You can do so.

By Mr. CLARKE:

Q. How do you wish to be understood, when you replied to the chairman that you did not think you said you would vote for the man who paid you the most money, but you might have said so in a jocular way?

A. I mean simply to be understood as saying it has passed my memory. My impression is I never said it.

Q. Might you not have said it?

A. Possibly I might. I might possibly have said so. I do not think I ever used the language you used there, though I might have said something from which a man could draw an inference, but in a jocular way.

Q. Do you recollect of coming into my room frequently?

A. What you considered your public room, or your private room? I did not go into that room but once.

Mr. CLARKE. I mean the one on the left hand of the hall.

The WITNESS. Yes, sir.

Q. Then you might have said to me jocularly that you would vote

for the man that gave you the most money without meaning it. Is that your answer?

A. I don't like to dispute your word, or put my evidence against yours, and I will not say I might not have said it.

By the CHAIRMAN:

Q. Had Mr. Caldwell, before the time of his candidacy, had any prominence in the politics of Kansas?

A. I can't say he had. I am not a politician. I can't say he had any especial prominence, as I am not much of a politician, and am not much acquainted with him.

Q. Had you ever been a candidate for any office?

A. I was a candidate for member of the legislature in 1871.

Q. But before that?

A. Never. O, yes; I was a member of the legislature in 1866 that elected Mr. Pomeroy and Mr. Ross. I voted for both of them.

Q. Have you ever been a candidate for any other office?

A. I never was a candidate for any other office, without it was a road overseer, in my life.

WASHINGTON, *Friday, January 10.*

SIDNEY CLARKE recalled.

By the CHAIRMAN:

Question. You stated in your testimony before the Kansas legislature, or before the committee of the Kansas legislature, that Mr. Luce had publicly declared that he would vote for whoever would give him the most money. What do you know about that?

Answer. Well, Mr. Luce had a room at the Tefft House, a few doors from mine. He is a man I have been acquainted with for many years, and he came into my room in a friendly way and said, either seriously or jocularly, that he would vote for the man that would give him the most money. That is all there is about the conversation.

Q. Mr. Luce remarked that to you?

A. He remarked it in my room. My room was my headquarters at the hotel. I cannot say I was alone at any particular moment.

Q. Was it your headquarters?

A. Yes, sir.

Q. In your hearing?

A. Yes, sir.

Q. Did he see you to know you were there?

A. Yes, sir; he was going back and to, and he made that remark.

Q. The remark was made publicly?

A. Yes, sir.

By Mr. ANTHONY:

Q. It was not a remark made to you privately?

A. No, sir.

Q. But as a man might say it here in this room in the presence of several?

A. Yes, sir; as a man might say it in coming into a room.

By the CHAIRMAN:

Q. It was not in the nature of a private communication to you for you to act upon?

A. No, sir.

By Mr. ANTHONY :

Q. Did you accept that remark as a proposition on the part of Mr. Luce, a serious proposition, that he was in the market and would sell his vote to you or to the highest bidder, or did you think that he was joking? What impression did it make upon you?

By Mr. TRUMBULL :

Q. The question is not what you think now, but what you thought then, if you can recollect what your impression was.

A. I can best answer your question by giving my general impression. My general impression was that a fearful state of demoralization existed, and I am free to confess my suspicions were aroused, and at that time I regarded the remark as real. I have no doubt now, in view of Mr. Luce's explanation, that he was speaking jocularly. I do not think I have met Mr. Luce from that time until I met him here.

By the CHAIRMAN :

Q. Had Mr. Luce run as an independent candidate against you in his county?

A. I had forgotten about that. I have no doubt he states it correctly. I must have been informed of it at the time, but it passed out of my mind.

At 3 o'clock the committee adjourned until to-morrow at 10 o'clock.

WASHINGTON, D. C.,

Saturday, January 11, 1873—10 a. m.

Mr. Caldwell laid before the committee a newspaper slip, produced by him yesterday, containing a speech by S. M. Strickler, and referred to on page 27, in the cross-examination of Sidney Clarke, and asked to have it read to the committee.

The CHAIRMAN. Is there any question as to the correctness of this report of the speech?

Mr. CLARKE. I presume not. It was published at the time.

Mr. CALDWELL. It is correct.

The CHAIRMAN. It will be read in evidence.

The paper was read to the committee, as follows:

"Mr. Strickler spoke as follows:

"Mr. PRESIDENT: In the contest now drawing rapidly to a close a number of gentlemen of this legislature presented the name and advocated with enthusiastic zeal the election of Hon. Sidney Clarke. They did this, first, because they were convinced that Mr. Clarke's ability, energy, and industry, so eminently conspicuous during his long term in the House of Representatives, would be of invaluable service in the United States Senate; and, second, because his devotion to the principles of the dominant party in Kansas, and his zealous advocacy of the rights of the people, justly entitled him, in their judgment, to the support of a grateful constituency.

"After the vote of yesterday it became apparent that Mr. Clarke could not be successful in this contest, and he announced to his friends that he would cheerfully withdraw from the field if any gentlemen acceptable to them, and to others who must act with them, could be united upon. Efforts having this object in view were, therefore, made last night by the friends of Mr. Clarke to bring about a concentration of

votes upon some citizen acceptable to them, and to those members who, while refusing to vote for Mr. Clarke, professed to be anxious to defeat the election of his strongest competitor. Mr. Clarke's supporters, therefore, presented to these gentlemen the names of Judge John T. Morton, of Shawnee County, Lieutenant-Governor P. P. Elder, of Franklin County, Governor James M. Harvey, Judge D. M. Valentine, of Franklin County, Hon. John M. Price, of Atchison County, Senator H. C. Whitney, of Allen County, and S. M. Strickler, of Davis County, with the statement that either of these gentlemen would be acceptable to them, and would receive their hearty support. This proposition, with all the names it included, was rejected. This action revealed the fact that the gentlemen professing to be opposed to both Mr. Clarke and Mr. Caldwell were unwilling to compromise upon any one except some candidate already in the field and of their own choosing.

"The duty then devolved upon the friends of Mr. Clarke of making a choice between Mr. Caldwell and others who were voted for yesterday. That choice was quickly and resolutely made. They recognized in Mr. Caldwell a gentleman of character and capacity, whose culture, energy, and integrity as a man, and whose sincerity as a republican, eminently fitted him for the high and honorable position of United States Senator. They therefore resolved to give him their united and cordial support.

"For these reasons, and with the full concurrence of Mr. Clarke, I withdraw his name as a candidate for United States Senator, and, on behalf of all his supporters, second the nomination of Mr. Alexander Caldwell."

WASHINGTON, D. C., *Saturday, January 11, 1873.*

JONATHAN HAMMOND sworn and examined.

By the CHAIRMAN:

Question. Where do you reside?

Answer. In Morris County, Kansas.

Q. Were you present at Topeka at the time of the election of Mr. Caldwell to the United States Senate?

A. I was, sir.

Q. In what capacity were you there; what was your business there?

A. I had no particular business. I was there working in the interest of Mr. Caldwell's election.

Q. Were you there in the interest of Mr. Caldwell?

A. Yes, sir.

Q. How did you come to go there?

A. Well, I generally go down during the session of the legislature.

Q. Were you there at Mr. Caldwell's request?

A. No, sir.

Q. How long had you been acquainted with Mr. Caldwell?

A. I had been acquainted with him several years.

Q. Did you know he was to be a candidate before you went there?

A. Well, I can't say that I did know he was until I went there.

Q. State to the committee what you know of the use, on the part of Mr. Caldwell, of money or other improper means to secure his election.

A. Money used by Mr. Caldwell?

Q. By Mr. Caldwell, or his friends.

A. I don't know of anything.

Q. You do not know of anything?

A. Not the use of any money.

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Q. Do you know of any money being promised?

A. No, I can't say that I do; not of any money being promised by anybody.

Q. Do you know of any other thing being promised, as in the way of payment of debts or anything of that kind?

A. No, sir; nothing.

Q. Do you know of any money being offered?

A. By Mr. Caldwell?

Q. Yes, or his friends, to secure votes.

A. No, sir; I can't say that I do.

Q. Did you make any proposition to anybody on that subject?

A. I did, sir.

Q. To whom did you make the proposition?

A. To a man by the name of Snead.

Q. What was the proposition?

A. Well, I approached him a time or two to secure his vote for Mr. Caldwell, and he made some statement that he was rather a poor man and that he should make that with his vote; that he should have pay for it, or something to that effect; and I partially made some arrangements with him.

Q. What were those arrangements?

A. My arrangement was with him that I would pay him a certain amount of money.

Q. How much?

A. Two thousand dollars. I agreed to pay him that. I made the proposition myself.

Q. When was the money to be paid?

A. As soon as I could make arrangements to secure the money.

Q. Was it before the vote was cast, or afterward?

A. Afterward.

Q. You offered him two thousand dollars?

A. Yes, sir; I made that offer.

Q. Did he agree to take it?

A. Well, he didn't say he would positively, but I was to go back afterward. I was going down to my hotel where I boarded, and I told him I would come back again and make other arrangements. After I came back Mr. Snead had gone away. He was at the Tefft House, and went up to the capitol, and I didn't see him until after the vote was cast.

Q. How did he vote?

A. On the first ballot he voted for Mr. Clarke.

Q. How did he vote in the joint convention?

A. I do not remember how he voted in that.

Mr. CALDWELL. He is mistaken there.

Mr. CLARKE. The record shows he voted for Mr. Caldwell.

The WITNESS. He voted for Mr. Caldwell in the joint convention.

By the CHAIRMAN:

Q. You did not see him until after the vote was cast?

A. No, sir.

Q. What took place then?

A. After the first ballot was taken I think Mr. Clarke——

Q. Was there more than one ballot in the joint convention?

A. I can't remember.

Q. Your conversation with him was before the vote was taken in separate houses?

A. Yes, sir; before any vote was taken whatever.

By Mr. ANTHONY :

Q. Was it before he voted for Clarke ?

A. Yes, sir ; before he voted for Clarke.

By the CHAIRMAN :

Q. Did you see him before the vote in the joint convention, by which Mr. Caldwell was elected ?

A. Yes, sir.

Q. Did you have any further conversation with him ?

A. No, sir ; nothing further—oh ! I had conversations with him, it was true.

Q. Was anything said about that ?

A. No, sir.

Q. Nothing afterward ?

A. No, sir ; not that I remember.

Q. Did he make any demand upon you for the payment of the money ?

A. No, sir.

Mr. TRUMBULL. Snead voted for Clarke in the separate house, and for Mr. Caldwell in the joint convention, as the record shows.

By the CHAIRMAN :

Q. He made no demand upon you ?

A. No, sir ; he made none.

Q. Did he make any reference to it ?

A. No, sir.

Q. Did you tell him ?

A. No, sir ; I never named it afterward.

Q. In your first proposition to him, when you offered him the two thousand dollars, by whom was that to be paid ?

A. It was my own proposition. I made the proposition with the expectation of receiving a sum of money to secure the vote, if I could make that arrangement.

Q. There was nothing said, then, at the time, as to whether you were to pay him the money directly, or he was to get it from Mr. Caldwell ?

A. No, sir ; there was nothing said.

Q. Was anything said as to whose money it was to be ?

A. No, sir.

Q. You say you made it with the expectation of getting some money for the purpose ?

A. Yes, sir.

Q. How was that expectation created ?

A. There was a man named Smith—George Smith—who made the remark to me one day, that if I wished to use any money I could do so, if I should need any.

Q. You say one day. How long was that before this conversation ?

A. Some two or three days before the conversation with Snead.

Q. Who was George Smith ?

A. George Smith, of Leavenworth.

Q. Was he working in the interest of Mr. Caldwell ?

A. Yes, sir.

Q. Had you had more than one conversation with Smith ?

A. Yes, sir ; several.

Q. Did he tell you how much money you could use ?

A. No, sir ; he didn't tell me.

Q. In that conversation, in which he said that money could be used, was any reference had to Mr. Snead's vote, or any particular vote ?

A. No, sir; there was no reference to any person's vote. He just remarked if I needed the use of any money I could call on a certain person and get it.

Q. Who was that person?

A. A man named Simcock.

Q. Was he there?

A. Yes, sir.

Q. Did you know him?

A. Yes, sir; I am acquainted with him.

Q. Where does he live?

A. In Council Grove, in our county.

Q. Was he a moneyed man?

A. O, yes, sir; a man of means.

Q. Was he there in Mr. Caldwell's interest?

A. He so expressed himself to me.

Q. Who so expressed himself?

A. Mr. Simcock.

Q. Did you have any conversation with Mr. Simcock about money in his hands for disbursement?

A. No, sir; I never mentioned it to him.

Q. Did you have any talk about money matters?

A. No, sir; the only talk I had was with Mr. Smith. He told me if I needed any money, to call on Mr. Simcock.

Q. Did you have any conversation with Mr. Caldwell about this at that time?

A. No, sir; I had not spoken to him at that time.

Q. You had met him, had you not?

A. No, sir; I didn't even meet him at the time of this conversation between I and Snead.

Q. Was he there?

A. You mean Mr. Caldwell?

Q. Yes.

A. He was.

Q. Was there anything said between you and Smith about compensating you, if you could procure votes for Caldwell?

A. No, sir; no offer was ever made to me.

Q. Had you any pecuniary interest in Mr. Caldwell's election?

A. Yes, sir; I had some interest in it.

Q. A pecuniary interest?

A. Yes, sir.

Q. What pecuniary interest?

A. Well, my interest in Mr. Caldwell's election was this: our county, or a portion of it, is in an Indian reservation; it is nine miles in width by fourteen in length, and I thought by electing Mr. Caldwell we could get him to use his influence to bring that land into market and sell it, and that was my own interest.

Q. Was that the pecuniary interest?

A. Yes, sir.

Q. Had you no other?

A. No, sir.

Q. Had you assurance from Mr. Caldwell that, if elected, he would take that course?

A. I had afterward.

Q. But before that time, or at that time?

A. No sir; not before that time.

Q. If you had had no interview with Mr. Caldwell before that time,

what assurance had you that he would be in favor of bringing these lands into market?

A. I had it through this man Smith.

Q. Smith told you that in this same conversation?

A. We were together a great deal of the time I was there.

Q. Did he tell you that if Caldwell was elected he would be in favor of bringing these lands into market?

A. He said he thought so; to go and see him; and afterward I did go and see him.

Q. When, afterward?

A. After I had the conversation with Snead.

Q. What did Mr. Caldwell tell you?

A. He told me that, if successful, he would use his interest or influence or his ability in trying to bring that land into market, and help our people in that county. I and Mr. Simcock went up together.

Q. You said that you had but one conversation with Snead.

A. Before that one I had other conversations, but only the one in which I made that promise.

Q. Did you tell him upon whose authority you made the offer?

A. No, sir; I didn't.

Q. You have stated that the money was to be paid after the vote was cast?

A. Yes, sir.

Q. Now, do you know of any other money being offered by anybody?

A. I do not.

Q. Were you examined as a witness before the Kansas legislative committee?

A. I was, sir.

Q. Did you hear of any other offers being made by Mr. Smith or anybody else?

A. No, sir.

Q. Is this the only transaction you know anything about?

A. The only one in regard to money being offered.

Q. Did you state before the Kansas legislative committee that after you made this offer to Snead he agreed to vote for Caldwell?

A. Yes, sir; he agreed that he would vote for Mr. Caldwell.

Q. Did he agree that he would vote for Caldwell when you made the offer?

A. Yes, sir; I will state it so that you can understand me; perhaps I have not stated it in the right manner. Before I made him the offer I yet did not know whether I could make the arrangement for the \$2,000, I didn't know positive that I could; and I said to him "Stay here until I go down to my hotel, and I will find out more about it;" and I went down there and didn't find Mr. Smith, and so I staid there an hour or more, and Smith didn't come in, and then I went back to the Tefft House and he had gone to the capitol, and I didn't see him any more until he had voted. I didn't make any other arrangements with him.

Q. Do you say he agreed that he would vote for Caldwell for \$2,000?

A. He said something to that effect; that he was a poor man and that it would assist him; or at least I understood him that he would vote for Mr. Caldwell for \$2,000.

Q. And then you went down to see Smith to get the money?

A. Yes, sir.

Q. And waited an hour or more?

A. Yes, sir.

Q. After that you went back and Smith was gone?

A. Yes, sir.

Q. Was that the day the vote was taken in the separate houses?

A. Yes, sir. I think it was Monday.

Q. Do you know whether Snead thought that you had abandoned him, or gone back on him, and so did not wait for you to come back and see him?

A. I don't know what he thought; he never demanded a dollar.

Q. Do you know whether he had an interview with Smith about it?

A. No, sir; I don't think he did. I don't know anything about it.

By Mr. HILL:

Q. After you saw Snead and made the offer of \$2,000 for his vote, whom did you tell that you had done this?

A. Who did I tell?

Q. Yes; to whom did you communicate the fact that Snead had agreed to vote for Caldwell?

A. I don't know that I did to any one except to Simcock or Smith.

Q. Did you tell them, or either of them, that you had promised him \$2,000?

A. I spoke to Simcock about it, that I had made some arrangement with Snead.

Q. What did Simcock say?

A. He wanted to know if I thought Snead would vote for Caldwell. I told him I thought he would. I don't know that I told him what offer I had made him; but I told Simcock I thought I had secured Snead's vote.

Q. Did he ask you how you had secured it?

A. No, sir.

Q. You are not sure whether you told him or not?

A. I think very likely I did; that I was to use some money to secure his vote, but would not deposit it.

Q. You never paid Snead any money?

A. No, sir.

Q. You do not know whether anybody else did?

A. No, sir. My opinion is he never received a dollar.

Q. Did he ever tell you so?

A. No, sir.

Q. Did he ever say anything about it to you afterward?

A. No, sir; we never had any conversation about his vote after the election. Him and I were together several times.

Q. He never has complained that he did not get any money?

A. No, sir.

Q. Nor said that he did?

A. No, sir.

By Mr. TRUMBULL:

Q. You say you had a pecuniary interest in aiding Mr. Caldwell's election. How were you pecuniarily interested?

A. As I stated, in the sale of these lands; bringing what we call there the Kaw lands into market.

Q. That was all your pecuniary interest?

A. I am living right in that county, and I thought that by getting the lands into market it would help to settle up the county and bring it population. Our taxes are very high there every year, and the lands are not in market yet, but will be shortly. I think it would help our county very much.

Q. You had no individual interest?

A. Nothing more than that.

Q. You were not expecting to get any of the land?

A. No, sir; not unless I paid for it.

Q. Did you expect that you would get some by paying for it, and that that would be an object for you?

A. Yes, sir; I expect so yet.

Q. That was a general interest; but you had also your own interests in view, that you might make something out of it yourself?

A. Yes, sir. Mr. Simcock was of the same opinion.

Q. It was that that interested you to go to Topeka?

A. Yes, sir; that was partly my business. I generally go over to the legislature. I have for ten or twelve years.

Q. You had known Mr. Caldwell some time before?

A. Yes, sir.

Q. What reason had you to suppose he would support this measure?

A. By talking with this man Smith, I drew the idea that Mr. Caldwell would assist in bringing the lands into market.

Q. To be sure about it you went with Mr. Smith?

A. No, sir; with Mr. Simcock, to Mr. Caldwell's room.

Q. What did he say?

A. He said if he could do anything for our people in bringing these lands into market he would do so.

Q. Was that before or after his election?

A. Before his election.

Q. What were the relations between Mr. Smith and Mr. Caldwell?

A. I don't know. I can't say what they were. Mr. Smith took an active interest.

Q. Took an active part for Mr. Caldwell?

A. He took an active interest in his election.

Q. When he told you that you might use money if it were necessary, did you regard him as a responsible man who would make good what he said in that regard?

A. Yes, sir; I thought so.

Q. When you stated to Mr. Simcock that you had made an arrangement which would secure Mr. Snead's vote, as you thought, and stated to him what you had promised, did Mr. Simcock make any objection to it?

A. No; I don't know that he did.

Q. You gave him to understand that you had made some promise?

A. Yes, sir; I think I told him I had made some promise, but not the amount.

Q. Did he understand from you that he was to make it good?

A. No, sir.

Q. You only had that information from Smith?

A. Yes, sir.

Q. Was that such as you relied upon?

A. Yes, sir.

Q. Was the character of this gentleman such that you could rely upon him?

A. Yes, sir; Mr. Simcock was a man of means.

Q. Was Smith a man of means?

A. I don't know so much about him.

Q. He lives in Leavenworth?

A. Mr. Simcock lives in my town.

Q. What were the relations between Mr. Simcock and Mr. Caldwell?

A. I don't know that it was anything more than I have stated of my own.

Q. Where did Mr. Simcock reside—at Topeka?

A. No, sir; in the county I live in, Morris; in the same town.

Q. You know him well?

A. Yes, sir; personally acquainted with him for years.

By Mr. HILL:

Q. Was Mr. Snead your representative?

A. No, sir; Mr. Phinney was our representative at that time.

By Mr. TRUMBULL:

Q. Did you not, in your former testimony, use the name of Mr. Phinney?

A. I think I did.

Q. What do you know about him?

A. I never approached Mr. Phinney at all in regard to his vote at any time.

Q. What was the conversation you had with Mr. Smith in regard to Mr. Phinney's vote?

A. Well, Mr. Smith asked me if I would have any influence over Mr. Phinney's vote, so that I could control his vote and get him to vote for Mr. Caldwell. I stated to him that I had none, but I thought I could manage through other men that could secure Mr. Phinney's vote.

Q. And did you lay a plan that you thought would accomplish that object?

A. Yes, sir.

Q. What was it?

A. I proposed this, through Mr. Simcock or Smith, to write up to Mr. Phinney's brother-in-law, Charley Columbia—as we call him there—for Charley to come down, and we would all get together and state to Mr. Phinney that we wished him to vote for Mr. Caldwell, and give our reasons for doing so; that we thought if we could get Mr. Caldwell elected these Kaw lands could be brought into market by his being elected. I don't know whether Mr. Smith wrote to Columbia or not, but, any way, Columbia came down and we all got together, or at least Mr. Simcock and Phinney and Columbia got together, and I think part of the time I was in the room, although I didn't approach Mr. Phinney, or say anything to him. They talked the matter over, and, from what I could learn, Phinney came to the conclusion that he would vote for Caldwell, on account of the Indian lands.

Q. You stated that Phinney had been elected as a Clarke man, did you not?

A. Some say in our county that he was elected as a Clarke man, and some say not. I don't know.

Q. You do not know how he had been understood to be before the senatorial election?

A. I can't say positively; but some reports have it in the county where I live that he was a Clarke man; therefore I can't say.

Q. Did you know what means were used to get Mr. Phinney to vote or promise to vote for Mr. Caldwell?

A. I only know it from others.

Q. From whom?

A. I know it from Mr. Simcock. Him and I had several conversations about it.

Q. Did he tell you what means were used?

A. He said Mr. Phinney gave as honest a vote as any man ever did for the interest of the county. By talking to him in regard to the sale of these lands, him and Columbia—and I think George Smith was in a portion of the time—until Mr. Phinney came to the conclusion that it was the best vote he could cast for the interest of the county.

Q. Did you understand that any interest was used with Columbia, his brother-in-law?

A. No, sir; I don't believe there was a dollar used.

Q. Or promised?

A. No, sir; nor promised; not a dollar.

Q. So far as you know or have reason to believe, in reference to Mr. Phinney's vote, it was a vote cast from public considerations?

A. I think it was cast for the interests of the people of the county.

Q. But that he acted from public considerations?

A. Yes, sir.

Q. Without any other consideration?

A. I haven't the least idea that Mr. Phinney ever received a dollar.

By the CHAIRMAN:

Q. Or the promise of it?

A. No, sir; I don't think he ever had the promise of it.

By Mr. TRUMBULL:

Q. Do you think he was influenced by the promise that Mr. Caldwell would bring these lands into market?

A. Yes, sir; I think that had a bearing on him, because, like myself, he is anxious to have the land in the market. That was the influence, I understand, presented to Mr. Phinney.

Q. Had these persons authority from Mr. Caldwell to present that consideration?

A. Yes, sir. I will state that, after we had talked with Mr. Phinney, he then went up to Mr. Caldwell's room. I had no conversation with Mr. Phinney myself; but I and Mr. Simcock, after they had talked with Mr. Phinney, went to Mr. Caldwell's room and spoke to him about these lands, and told him that the people of the county were very anxious to have the lands brought into market; and Mr. Simcock told me he had had a talk with Phinney, and he thought if Mr. Caldwell would use his influence to bring these lands into market, Mr. Phinney would vote for him; and I think Mr. Caldwell promised he would do it. I would not say he promised positively.

Q. The assurance was given to Phinney, to induce him to vote for Caldwell, that Caldwell would do so?

A. Yes, sir. He said he would do what he could for the interests of the people of Morris County. It was our interest, of course, to have the land brought into market.

Q. Is Mr. Simcock a gentleman who would be likely to advance, out of his own pocket, two thousand dollars?

A. I don't know that he would. He is a man that has a good deal of means. I don't know whether he would or would not. He is about the wealthiest man in our county.

By Mr. HILL:

Q. At the time you made the offer of two thousand dollars to Mr. Snead, was it your intention to pay him that two thousand dollars yourself?

A. No, sir; it was not.

Q. Or was it your purpose to find out whether two thousand dollars would buy his vote?

A. My object was to find out the very best I could do with him to secure his vote.

Q. Was that the least he would take?

A. When I first spoke to him that was the least he would take, and I think I made the remark that if I could not do better I would have to pay him that.

Q. Was it your intention to pay him that?

A. Not unless I could make positive arrangements to raise the money. I didn't expect to pay him myself.

Q. Did you expect to pay him any money of your own?

A. No, sir.

Q. Then was it not your object to communicate what you got from him to others? Did you not seek the conversation in order that you might tell to somebody else what he said he would do?

A. Yes, sir. As I stated before, I went down to see Mr. Smith to see what arrangement I could make, but did not see him.

Q. But you did give the information that his vote could be got for some consideration—for money?

A. Yes, sir; I told Mr. Simcock.

Q. You do not know what was given for it, if anything?

A. No, sir; I do not know that there was a dollar given.

By Mr. CALDWELL:

Q. Mr. Hammond, you have spoken of Mr. Smith in your testimony. You refer, as I understand you, to Mr. George Smith, of Leavenworth?

A. Yes, sir.

Q. I want that distinctly understood. You say now that Mr. Simcock is a man of large wealth in your county?

A. Yes, sir; he is considered a wealthy man.

Q. Was he not largely interested in real estate in that county?

A. Yes, sir.

Q. Interested in lands adjoining these Kaw lands?

A. Yes, sir.

Q. Were you authorized by me, or any one else, by authority for me, to offer money or other considerations for votes?

A. I was not, sir.

Q. I want that direct.

A. I was not.

Q. Now, sir, I want to know another thing. Did you understand that I agreed to use my influence to bring the Kaw lands into market as a consideration for votes, or did you understand that I engaged that that would be part of my public policy?

A. That is the way I understood it. You made this remark, if I remember aright, that you would do the best you could for the people of Morris County.

Q. Did I not couple that with the statement that I was in favor of moving the Indians out of Kansas and getting the lands in the hands of white settlers?

A. I think you did; I am positive you did.

Q. Did I not say something about having moved the Delawares out of Kansas and getting their lands into market years previously to my election?

A. Yes, sir.

By Mr. CLARKE:

Q. What were your politics at the time of this election?

A. I was a democrat, sir.

Q. What Simcock do you refer to? G. W. Simcock?

A. No; G. M. Simcock.

Q. What were his politics?

A. He is a democrat.

Q. When you went to Mr. Snead and asked him to vote for Mr. Caldwell, what reason did he give for not desiring to do so?

A. Which; vote for Caldwell?

Q. Yes, sir.

A. Well, I think he made the statement that he could not well do so; that he had been elected in his county on what he called the Clarke issue there; and, he says, "I will have to vote for Clarke." That was the remark he made to me.

Q. What was your understanding in reference to the issue when Mr. Phinney was elected?

A. Whether a Clarke or anti-Clarke man.

Q. What was your own understanding about it?

A. I always thought Phinney was a Clarke man, to give my own opinion; but then I don't know that he was. I always imagined he was.

By the CHAIRMAN:

Q. Was that issue made in your county?

A. No, sir; it was not.

By Mr. CLARKE:

Q. Was not that issue a general issue throughout the State in that election?

A. I don't know about the State, but in our county it was democrat and republican. That was the issue.

Q. Do you know Mr. G. W. Simcock paid to Mr. Snead this two thousand dollars?

A. No, sir; G. W. didn't.

Q. G. M. I mean.

A. He didn't; or, I didn't know it.

Q. Might he not have paid it without your knowledge?

A. I don't know. I don't think he did, though.

Q. Have you conversed with Mr. Simcock about the subject since, whether he paid the money?

A. Yes, sir. I have heard Mr. Simcock say he never paid no man a dollar.

WASHINGTON, D. C., *December 11.*

WILLIAM SPRIGGS sworn and examined.

By the CHAIRMAN:

Question. Where do you reside?

Answer. I reside at Garnett, Kansas.

Q. Were you at Topeka during the senatorial election which we are investigating?

A. Yes, sir.

Q. In what capacity and for what purpose were you there?

A. Well, I was a private citizen. I had no official capacity whatever.

Q. Then for what purpose were you there?

A. I went there at the request of Governor Carney.

Q. To do what, or for what reason?

A. Well, in his letter he didn't state. I received a letter from him a few days before, or about the time of the convening of the legislature, requesting me to meet him at Topeka.

Q. Was he there?

A. He wrote me from his home at Leavenworth.

Q. Did you meet him there?

A. Yes, sir.

Q. What reason did he then give for wanting you to be there?

A. I think he stated that he expected to have been a candidate himself for the Senate.

Q. Now, Mr. Spriggs, state to the committee what you know, if anything, in regard to the use of money or other corrupt means on the part of Mr. Caldwell to procure his election.

A. Personally, I don't know anything directly of my own knowledge.

Q. Let us see how, when you come to it. What do you know about it?

A. All I know is what other men told me who talked about it.

Q. Whom did you have conversations with in regard to it?

A. I had conversations with quite a number of men—with George Smith, that these other gentlemen have testified about, and Len. T. Smith.

Q. What was the conversation with George Smith about?

A. It was in regard to the election of Mr. Caldwell.

Q. Was it in regard to the use of money?

A. Yes, sir; some of it was.

Q. In what capacity was George Smith there?

A. George Smith was there working for the election of Mr. Caldwell.

Q. Was he a prominent friend of Mr. Caldwell?

A. He was a very active friend, I will say.

Q. Was he recognized there as one of Mr. Caldwell's active friends?

A. Yes, sir.

The CHAIRMAN. Now it will be for the committee to say whether a foundation is laid for introducing Mr. George Smith's statements, taken in connection with what has been said before.

The question being put, the committee concurred that the statement should be received.

By the CHAIRMAN:

Q. State what took place between you and Mr. Smith, and, in the first place, when it was.

A. I conversed with him before and during the time, and afterward I had several conversations with him.

Q. Confine yourself to conversations before the election.

A. Well, sir, on one occasion, about the second day, I believe it was, before the first vote was taken—that in the separate houses—there were some members invited down to the Fifth Avenue Hotel—three, I think, or four—and Mr. Smith invited me in with them, and we went in there and drank some champagne, I believe, and sat awhile and talked, and then the members went out.

Q. What members were they?

A. One of them was C. B. Butler; I think that was his name.

Q. Was he a member of the house?

A. Yes, sir; of the house, from Coffee County; and one was a man named Wilson, I forget which. There were two Wilsons in the house,

if I recollect aright; one from Atchison County, and one from a western county. I don't know which one of the Wilsons it was, whether the one from Atchison or the western Wilson; but he was one of the two Wilsons; and there was some other man I do not remember. There was one more member at least, may be two; but I cannot call their names.

Q. Were they friends of Mr. Caldwell, or not?

A. I believe some of them voted for him afterward. They did not say there whether they were friendly or unfriendly. After they had retired Mr. George Smith said that he was negotiating with these gentlemen for their votes and Mr. C. B. Butler; he said his house had a note of \$850 against Mr. Butler. Mr. Smith had been a wholesale merchant in Leavenworth, and he said their house had a note of \$850 on Mr. Butler, and he had to surrender that note in order to get Mr. Butler to vote for Mr. Caldwell.

Q. Did he speak of having made an agreement to that effect?

A. Yes, sir; that is just what he said; he had to surrender that note to get his vote for Mr. Caldwell.

Q. What with regard to the other members? You say he said he was negotiating with these other men?

A. Yes, sir; there was one other member that was present in that party that he said he had to pay a thousand dollars for; but whether that was one of the Wilsons, or this other gentleman, I cannot remember positively.

Q. Did he speak of it as a negotiation completed, or that he would have to do it?

A. O, he spoke as though he had already done it.

Q. What else did he say of the use of money, in that conversation?

A. I think that is about all. It is all that I recollect of at that time. I had some other conversations with him.

Q. Were you at the time these conversations took place a recognized friend of Mr. Caldwell's?

A. Yes, sir; I was assisting a little, what I could.

Q. Were you then working for Mr. Caldwell?

A. I was.

Q. How did he come to speak to you, to make these statements to you? How did that happen?

A. To go back a little farther, to make it probably a little plainer; in the first place, after a number of us had concluded to support Mr. Caldwell, there were five or six, I believe six, that were constituted a kind of committee to look after and further the election of Mr. Caldwell.

By Mr. HILL:

Q. That was an outside committee, outside of the legislature.

A. Yes, sir.

By the CHAIRMAN:

Q. When had that arrangement been made?

A. Well, I think it was made on Tuesday, at least a week before the first vote.

Q. Were you a member of that committee?

A. I was a member of that committee.

Q. Who constituted that committee?

A. Governor Carney, Governor Osborn, Len. T. Smith, Frank Drenning, and myself.

Q. Was George Smith a member of it?

A. No, sir; he was not a member of that committee.

Q. Did that committee have a meeting?

A. We had one, two, or three meetings every day. We had two rooms.

Q. Did Mr. George Smith come to make a statement to you of these negotiations? Was he reporting to you as a member of the committee?

A. No, sir; I do not suppose he was. I do not know why he came to do it. He knew I was one of the committee; but it was not at the committee rooms, it was at the hotel he had this conversation with me.

Q. This statement was made to you in confidence, was it?

A. No, sir.

Q. It was not made in confidence?

A. Well, there was nothing said about it being any secret. We just talked over the chances of Mr. Caldwell's election.

Q. What did you say in reference to this?

A. I don't remember what I said; I don't remember what I did say.

Q. Did you condemn this thing as being an improper use of money, or being corrupt?

A. I did not. I did not say anything to him.

Q. Did you object to it?

A. To Mr. Smith?

Q. Yes.

A. No, sir; I did not object. I did not enter any protest at all.

Q. In this committee, which you say had had several meetings, in the course of its deliberations was any reference made to the use of money?

A. Yes, sir.

Q. State whether Mr. Caldwell had any knowledge of the constitution of this committee.

A. Yes, I guess he did. Mr. Caldwell never came into that room; but I know Mr. Caldwell had a knowledge of it.

Q. How do you know?

A. I think he talked about it a little to me.

Q. Did the members of the committee confer with him from time to time?

A. Yes, sir.

Q. Do you state, then, that he knew that this committee had been organized in the manner that you speak of for his service?

A. Yes, sir.

Q. State what took place in this committee, what was said at this committee. Were any of its meetings in regard to the use of money?

The CHAIRMAN. I will first submit to the committee the question whether that interrogatory is a proper one.

The question being submitted to the committee, the members concurred in the opinion that it should be asked.

By the CHAIRMAN:

Q. State, now, what took place in that committee.

A. I can do that probably sooner by stating how we acted.

Q. Just do it in your own way.

A. We usually met at ten o'clock in the morning. We had a roll of the senate and of the house and kept them, and we would compare notes, and then such a member of the committee would be sent that day or at such a time to see such members of the house, and such another one to see somebody else, whoever we thought would be the best man for that particular place, and then we would meet again at such another hour, and report what we had done and what success we had had, and in

some quite a number of times, I do not know how many. In making the report and comparing notes there was one member of the committee would report; in calling over the names he would come to such and such a man and he would say, "We had better not count that man yet, that is under negotiation and he is a little too high; I think I can bring him down some."

Q. By "negotiation;" was that a bargain for a price?

A. Yes; that was a bargain for a price.

Q. How many occurrences of that kind were there?

A. There was but one man that made that kind of reports.

Q. Who was he?

A. That was Len. T. Smith; but still I am totally unprepared to say the number of times.

Q. Did any other member of the committee report negotiations of that sort?

A. No, sir.

Q. Of members being approached in that way?

A. No, sir; I have no recollection of any other member of the committee doing it.

Q. Was there any understanding in the committee that Mr. Smith was the member of the committee who was to conduct negotiations of that kind?

A. Well, whether there was anything said or not I do not know, but there was a general kind of consent that he was to do that business.

Q. How many members did he report being in negotiation?

A. That is what I say I could not tell; quite a number; I can give one or two instances that occur to my mind.

Q. Can you remember their names?

A. I can remember one name very distinctly.

Q. Whose name?

A. It was Mr. T. C. Sears. He happened to be the senator from my own district.

Q. Can you recollect any other names?

A. It does seem to me, since I have heard Snead's name called here to-day, that that was one, but it had passed out of my mind. Since I heard it called here to-day, I thought that that was another member mentioned there.

Q. Were there other members mentioned there?

A. Yes; quite a number.

Q. Did he report to this committee that he had agreed with any of the members upon a price?

A. Yes, sir, several; and Mr. Sears, I asked him the question. I think that is about the only question I asked him touching that subject. I asked him what Mr. Sears asked. He said \$5,000. He said he had offered him \$2,500, and he could not give the five thousand unless he could not secure enough without it.

Q. Was the question submitted to the committee in any way whether he should give \$5,000?

A. O, no, sir.

Q. Did he report what he had done with a view of taking the opinion of the committee, or asking their assent?

A. No, sir; he did not ask any assent; he just made out his statement.

Q. Was anything said in committee by any member of it as to where the money was to come from? Who was to furnish the money; what was said about that?

A. There was nothing said in the committee as I know of. The committee had no money.

Q. Was it understood that Mr. Smith was paying this money out of his own pocket?

A. No; it was not so understood, I guess. I did not so understand it.

Q. Out of whose pocket, then, was it to come?

A. I suppose it was to come out of Mr. Caldwell's. I do not know anything about that.

Q. When Mr. Len. T. Smith reported to the committee these negotiations, from time to time, was there any objection in the committee to the use of this sort of names?

A. Well, it was spoken of a little; it was spoken of a little, at times.

Q. Did the committee dissent, or say they refused to be connected with anything of this sort?

A. No, sir.

Q. Was the committee accepting this kind of service and aid in behalf of Mr. Caldwell?

A. Well, I told you the committee had no control of any funds, and members of the committee generally reported just on members that they had been to see, what they did or how they could be obtained.

Q. How were the prices of other members that Mr. Smith reported to you; how did prices range?

A. Well, I will say that there were more thousand dollar votes than any other one number or any sum reported; five thousand was the highest that was reported.

Q. Was Mr. Caldwell present at any meeting of the committee?

A. Mr. Caldwell never was present at the committee.

Q. I will ask what you know about these matters being reported to Mr. Caldwell?

A. That I know nothing about.

Q. Who was Mr. Len. T. Smith?

A. Well, he is a business man of Leavenworth.

Q. A man of property?

A. A man of a good deal of property—reported to be.

Q. Is he connected with Mr. Caldwell in business in any way, or had he been?

A. I think he had been. He might have been at that time; I do not know.

Q. Did you hear anything about there being a deposit of money anywhere? Did you hear anything about the financial agent, or who was acting as financial agent, of any of the parties?

A. By whom?

Q. In this committee by Mr. Smith or anybody else.

A. Probably there might have been. I think it was that Mr. Len. Smith was the financial agent of Mr. Caldwell. He was so regarded, I know.

Q. Was anybody else spoken of as acting in connection with him in regard to money matters?

A. Not that I recall to mind now.

Q. Do you know Mr. T. J. Anderson?

A. Yes, sir.

Q. Was he there?

A. Yes, sir.

Q. Was he acting as Mr. Caldwell's friend, or in what capacity?

A. He was acting for Mr. Caldwell; he was a very active friend of Mr. Caldwell.

Q. Was he connected with a railroad company?

A. He was the ticket-agent, I believe, or some agent of the Kansas Pacific Railroad; their ticket-agent, I believe, but I am not sure what it was.

Q. Was he one of Mr. Caldwell's recognized friends there?

A. Yes, sir.

Q. Intimate with Mr. Caldwell?

A. I do not know how intimate they were.

Q. Did you see him in conversation with Mr. Caldwell coming into his room or going out?

A. No, sir; I do not know anything about that.

Q. What do you know about the business transactions between Mr. Anderson and Mr. Carson after the election?

A. I believe it was the morning after the election, just before I was starting home, Mr. Anderson asked me to take an order down home and collect a thousand dollars for him of Mr. Carson.

Q. Who was Mr. Carson?

A. Mr. Carson was a man that lived in our town; Mr. William H. Carson, I believe it is.

Q. What was his business?

A. He did not have any.

Q. What was this thousand-dollar order for?

A. All I know about that is what Mr. Anderson told me. Mr. Anderson told me that he had given a man from Linn County a thousand dollars to vote for Mr. Caldwell, and Mr. Snoddy had brought such a pressure to bear that he—I believe the member's name was Crocker—Snoddy had brought such a pressure to bear that Crocker was backing down and would not vote for Caldwell, and had handed the money to Carson to return it, and Mr. Carson had got on the cars and gone home, and he, Anderson, wanted the money back.

By Mr. TRUMBULL:

Q. He wanted you to collect it?

A. Yes, sir.

By the CHAIRMAN:

Q. Did you take the order?

A. No, sir.

Q. Did you see the order?

A. No, sir. He just called me in, and wanted me to take the order and get a thousand dollars from Mr. Carson for him. I think I asked him what the thousand dollars was for. I knew he never could get a cent. I asked him how Carson came to owe him a thousand dollars.

Q. Did Anderson say he paid the thousand dollars to Crocker himself?

A. Yes, sir; I think he did. I think he said he had paid a thousand dollars to Mr. Crocker.

Q. Is that all that you know about that transaction?

A. Yes, sir.

Q. Have you never heard anything about it since from either of the parties—this thousand-dollar matter with Crocker?

A. I think I have never spoken since that time to Mr. Anderson about it. I talked with Mr. Carson about it, about a year ago, probably.

Q. Is there any other matter connected with this election which we

ought to know in making our examination? You understand the object of it. Do you know of any other matter, going to show corruption or improper use of money by Mr. Caldwell or his friends, that you have not mentioned? I commend you now to your own conscience.

A. Transactions that I know of personally? There was one member of our committee spoke of having some money to use.

Q. What member was that?

A. Mr. Drenning.

Q. A member of this committee of six?

A. Yes, sir.

Q. When did he speak of it? Was it in the committee?

A. No, sir; it was not in the committee, if I recollect aright; it was after the election was over.

Q. After the election was over and the committee had dissolved?

A. Yes, sir.

The CHAIRMAN. I submit as to whether the statements of this member of that committee made after the election was over are admissible.

It was agreed by the members of the committee that the witness should proceed and make the statement.

By the CHAIRMAN:

Q. When was this conversation?

A. This conversation was the same evening of the election, after the final election on joint ballot.

Q. Did you understand whether he had had it before the election, or after?

A. Yes, sir; he had had it, I guess, before, from the drift of the conversation. I think this was the afternoon before the final vote was taken, if I recollect aright now.

Q. State now what this gentleman said to you on the evening after the election was over.

A. He told me that he had paid or had put into the hands of the treasurer, or ex-treasurer, or the old treasurer—I know he used the word “treasurer”—of Nemaha County, \$2,000, for the votes of the two members from there.

Q. He said he had done it?

A. Yes, sir.

Q. Had the money been paid to the members or had it not?

A. I do not know. I do not think he said.

Q. Did those two members vote for Mr. Caldwell?

A. Yes, sir; I believe they did.

Q. Did he tell you where that money came from?

A. He did not.

Q. Did you ask him?

A. He said this; he said that Mr. Caldwell had been a little slow in the matter; that a day or two sooner these two votes were offered for a thousand dollars, or five hundred dollars each, but by delaying it cost Mr. Caldwell just double what it would if he had taken the first proposition. He said that he had \$7,000 placed in his hands, or he had the control of \$7,090, I do not know which, for the Doniphan County delegation.

Q. He said he had the control of \$7,000 for the Doniphan County delegation?

A. Yes, sir; seven members of his own county—five members of the house and two of the senate, I think it was. It was \$7,000 anyhow.

Q. Did he say he had control of the money, or it had been put in his hands?

A. I think he used the word "control," but am not sure. But he said it was placed in his hands.

Q. Did he tell you that the money had been paid to these members?

A. I think not.

Q. Had the money been used or not?

A. I think that was just what he said—that he had the control of \$7,000 for the use of the Doniphan County delegation.

Q. Did he tell you whether the money had been used, or had not been used, with that delegation?

A. I do not know whether he had paid it out, or whether it was still within his hands; he did not say.

By Mr. TRUMBULL:

Q. Did you understand that he had made any effort to pay it out, or was under any obligation to pay it out?

A. He said that was what it cost to get the Doniphan County delegation.

By the CHAIRMAN:

Q. He told you that that was what it cost?

A. Yes, sir; that that was what it did cost.

Q. And that he controlled the money?

A. Yes, sir.

Q. Did he say where that money came from?

A. No, sir; he did not say a word about where it came from.

Q. Is he a man of property?

A. I do not think Mr. Drenning is. He lives in the northeastern part of the State, and I know nothing about his financial capacity at all. I am inclined to think he is a poor man.

Q. How did he come to make this statement to you?

A. I think we talked the matter over about what it probably cost Mr. Caldwell to get elected.

Q. Did he give any opinion in that conversation, or did you, as to what it had cost Mr. Caldwell?

A. I think he did; I did not, because I did not know.

Q. What did he say as to the whole cost?

A. I think in that conversation he said that that election had not cost Mr. Caldwell less than sixty or seventy thousand dollars.

Q. Was there anything else said in the conversation?

A. Nothing that I can call to mind at this time.

By Mr. TRUMBULL:

Q. Was this Drenning the other member of the committee that you did not mention first?

A. Yes, sir; he was one of the committee.

By the CHAIRMAN:

Q. Did you have conversations with anybody else during this period in regard to the use of money or other corrupt means?

A. No, sir; I had no conversations. I will say this much in the beginning: about the time that this committee was arranged, I had a little conversation with Mr. Caldwell.

Q. What was that?

A. I told Mr. Caldwell the condition upon which I would support him, and after we agreed upon those terms, he made some suggestions to me as to what he wanted me to do.

Q. What were those conditions upon which you were to support him?

A. The conditions were, that two years from that time he would just as earnestly work for the election of T. Carney, Governor Carney, as Mr. Carney and Mr. Carney's immediate friends, including myself, would work for him then.

Q. Was that all the condition?

A. Yes, sir; that was all the condition that was made between us. I believe I said to Mr. Caldwell that in this committee we were arranging I did not want this man Legate; I did not want Legate to be allowed to come about the caucus. On them conditions I would go to work.

Q. To come about the committee or caucus?

A. This committee.

Q. This committee of six?

A. Yes, sir.

Q. You did not want Legate to come about it?

A. No, sir.

Q. Was that before you organized it?

A. That was the day we organized it; in the morning.

Q. Did Mr. Caldwell agree to the terms in regard to Carney?

A. Yes, sir.

Q. Was anything said in that conversation about the use of money or necessity of paying money for votes?

A. I will just tell you what Mr. Caldwell said to me about it. He asked me if I knew any members of the legislature that could be influenced by the use of money for their votes, and I told him that I knew two members, I believed, that had the reputation of having been influenced in their votes on former occasions.

Q. Did you mention their names?

A. Yes, sir.

Q. Who were they?

A. Mr. Luce was one.

Q. Mr. Luce who sits there?

A. Yes, sir; and the other man—I cannot call his name.

Q. Where was he from?

A. I cannot recollect; but I recollect telling him there were two who had the reputation of having been influenced on former occasions or a former occasion.

Q. What did Mr. Caldwell say in reply to that?

A. He said if I found any members that wanted a little money for votes, to send them to him and to Len. Smith.

Q. Was that all that was said upon the subject?

A. Mr. Caldwell said there was another class of high-toned gentlemen there in the legislature that would not sell their votes, but they put it in this way: that they had been to a pretty heavy expense in carrying their election, and they would want their expenses paid, and, if I met with any of that class, to send them to him or to Len.

Q. He said they put it in that way?

A. Yes, sir; he said there had been one or two—three, I believe—to him already.

Q. That wanted their expenses paid?

A. Yes, sir.

Q. Did he mention who they were?

A. No, sir, he did not.

Q. Did he say anything to you about a sum you would be authorized to pay?

A. No, sir; he told me to send them to him or to Len. Smith.

Q. Did you then see Mr. Luce or anybody else on this subject?

A. No, sir; I did not.

Q. Was that all the conversation? Have you told all that you remember, Mr. Spriggs?

A. Yes, sir; substantially all.

Q. That, you said, was on the day of the organization of that committee?

A. I think it was: That was on Tuesday. On Friday afternoon, after Mr. Carney had concluded not to be a candidate, Mr. Caldwell spoke to me and said he wanted me to work for him. I told him I would not give him any answer. He was then just going to start to Leavenworth, and I would not give him any answer, but when he returned on Monday I would give him an answer, and in the mean time I would take no part against him. He did not come back on Monday, but I think, if my recollection serves me, he came Monday night, and Tuesday morning I saw him. Then was the time I went to work, on Tuesday, I think.

Q. Did you make this arrangement with him by the assent or suggestion of Governor Carney?

A. Yes, sir. O, well, as to supporting him?

Q. Yes.

A. Well, I do not know whether that was so. I do not know whether Governor Carney had talked about that matter.

Q. Had you any other conversation with Mr. Caldwell upon this subject during the progress of these negotiations or of the canvass?

A. I think not; no special conversation.

Q. Any conversation in which such matters were referred to?

A. I think not. There is no other that I can call to mind at present.

Q. Was anybody present at this conversation?

A. I am not sure. There was a man came in, a youngish-looking man, and it seems to me he was there at that time, but whether it was before this time or after I do not know; and Mr. Caldwell introduced him to me as his cousin that lived at Manhattan, up the river. I am not sure whether he was present when this talk took place or not, but I think it was during this conversation that his cousin came in. It was into the room by his private room.

Q. In his private room?

A. Yes, sir.

By Mr. CALDWELL:

Q. Mr. Spriggs, I will ask you if you did not go to Topeka in the interest of Mr. Carney, originally?

A. I went at the request, Mr. Caldwell, of Governor Carney.

Q. Did you not go there expecting that you were going to work for Governor Carney for Senator?

A. I went there with this intention—that if Governor Carney was a candidate, to do all I could for him, and if he was not a candidate, I expected, if Mr. Crawford had any show, to support him. My object was to defeat Mr. Clarke here.

Q. If Mr. Carney withdrew, you, with other of Mr. Carney's friends, decided to support me?

A. Yes, sir.

Q. You spoke of a committee?

A. Yes, sir.

Q. How was that committee constituted or appointed?

A. You mean raised?

Q. Yes, and appointed.

A. I do not know just how it was appointed. We talked the matter over and came to the conclusion that that was the best way to conduct the canvass.

Q. Who talked the matter over?

A. Well, I think you and Mr. Smith and Mr. Osborn. I do not know whether Governor Carney did; whether we talked it over with Governor Carney or not.

Q. Where did this conversation take place?

A. That conversation took place in your room there, in the Tefft House, adjoining your private room.

Q. You say you think Governor Osborn was present?

A. I think so.

Q. You think Mr. Smith was present?

A. Yes, sir; I know he was present.

Q. Who else?

A. I do not know who else was present on the first occasion. We talked about that being the way we had conducted the election once before, and that it was the best plan. I am inclined to think that Mr. Osborn was the most active man in arranging that matter.

Q. How did Osborn go? Did he go as one of Carney's friends originally?

A. I think he did. He certainly was a friend of Carney.

Q. Are you sure I was present when that committee was constituted? Are you certain of that fact?

A. Well, it was spoken of there, Mr. Caldwell, and we talked about the matter; but I really do not know at what time you called it constituted.

Q. Did I ever meet with you as a committee?

A. O, no, sir.

Q. Where did the committee hold its sessions, Mr. Spriggs?

A. Well, I do not know. I do not think it was in the building of the Tefft House or Hotel. It was probably adjoining, up-stairs. It was where some of the members—I believe your delegation from Leavenworth—had a number of rooms adjoining, probably bed-rooms. I had two rooms there; it was close by the Tefft House.

Q. Was it not in the building Mr. Fenelon had rooms in?

A. Yes, sir.

Q. Was it a square away from the Tefft House?

A. I am not prepared to say. It could not have been a square.

Q. It was some distance?

A. It was not in the Tefft House; how far I am not prepared to say; it was a short distance.

Q. I would like you to say, and say certainly, whether you ever saw me in that building?

A. Never, never; that is, in the committee. I never saw you there; you never came in.

Q. Can you tell me what authority that committee had to buy votes?

A. I said in the outset that we had none as a committee.

Q. I understand you to say you never saw me in that building where you were holding your committee meetings?

A. O, no, sir; no, sir.

Q. Did I ever ask you to use money for me?

A. No, sir; you never did.

Q. Did you ever use any by my direction?

A. I did not.

Q. Did you ever promise any by my direction?

A. I did not. I never said a word to any member about money.

Q. Do you know, of your own knowledge, of any member of that committee doing it by my authority?

A. No, no; I have only their statements.

Q. Did any of that committee ever tell you in the committee, and say that they were authorized to pay money?

A. No; not in the committee.

Q. Was that a confidential committee in my interest?

A. Well, it was rather confidential, I guess. I know we kept out a good many men.

Q. To whom did you communicate these statements of the actions of the committee or members of it?

A. I do not think I ever communicated them to anybody.

Q. How was it ascertained, then, that you knew anything about the action of this committee, if you never communicated it?

A. I do not know that I understand you.

Q. How did you happen to go before the committee at Topeka?

A. I was subpœnaed there.

Q. Why?

A. I cannot tell you why. I knew nothing at all about it until I was subpœnaed.

Q. At whose instance were you subpœnaed?

A. At the State's.

Q. On whose motion?

A. I cannot tell you that. As I say, I knew nothing at all about it until the sheriff of our county came down to my house and read a subpœna requesting me to go before the committee, and I started that night or next day. At whose request, I cannot say, Mr. Caldwell. I mean at whose request I was subpœnaed, I cannot say.

Q. Will you tell me to whom, outside of that committee, or besides that committee, you communicated the statements you have made here?

A. Up to the time I was subpœnaed, and testified there, I do not think I ever said anything to any mortal man. If I did, I have no recollection of it. Since that time I have talked very little about it.

Q. To whom have you revealed these confidential relations since that time?

A. I do not remember anybody; I do not think I revealed it to anybody; if I did, I do not call it to mind now, but you might refresh my memory and call my attention to some particular instances that I might remember; but, if I did, I do not know it; I do not remember it now. I have never said, Mr. Caldwell, but very little about it.

Q. You said that I asked you what members could be obtained by the use of money?

A. Yes; if I knew of any that would be influenced in their votes by the use of money.

Q. How did you understand me; whether I asked that question with a view of securing them or avoiding them?

A. Well, you were seeking votes at the time.

Q. I ask how you understood it at the time?

A. If you want my opinion I will have to give it.

Q. Certainly.

A. I understood that you wanted me, if I knew anybody, to send them right to you, to obtain their votes in this way.

Q. Did you make any objection to that?

A. No, sir.

Q. Did you do it?

A. No, sir, I did not; that is not the way I electioneer. I never said a word to a man about the use of money. There was one man, a high-toned gentldman, came to me and said he had been to a very heavy expense, and said you were rich, and that you were able to pay that expense, and asked me what they paid; and I told him if he received that money I viewed it in no other light than a direct bribe, and if he took that money in that way he would regret it the longest day he lived.

By the CHAIRMAN:

Q. Who was that man?

A. His name was John G. Lindsay.

Q. From what county?

A. From Anderson County; my own member. I knew he had had a pretty hard tussle there to get elected.

By Mr. CALDWELL:

Q. What firm did George Smith allude to when he spoke of that note to be surrendered?

A. I do not know. That firm, I think, had changed partners once or twice, or part of the partners; but it was the firm of Eustein, Smith & Co. that they changed into. I think there was some little change in the firm's name. It was the dry-goods house in which he had been a member.

Q. Who was present, Mr. Spriggs, when you say that I requested you to send members to me?

A. I say I do not know, Mr. Caldwell, whether the youngish man you introduced to me as your cousin—I do not remember his name.

Q. I can tell you his name; Purcell, of Manhattan.

A. That is the name. I am not prepared to say whether he was present or not; but, if he was not, he came back into that room either during or just after the conversation, and you introduced me to him.

Q. Can you tell the precise time that this occurred?

A. I think, Mr. Caldwell, that it was on Tuesday morning. If the ballot in the separate houses was on Tuesday I could tell.

Mr. CALDWELL. That was so.

Mr. TRUMBULL. That is the law.

The WITNESS. Well, it was just the week before that; before the first ballot.

By Mr. CALDWELL:

Q. That is the day you met me in that room?

A. Yes, sir.

By Mr. CLARKE:

Q. I want to ask you, Judge Spriggs, in what capacity you regarded Mr. Len. T. Smith as acting; whether you regarded him as Mr. Caldwell's special confidential friend and agent or not?

A. I certainly regarded him as the spokesman of Mr. Caldwell.

WASHINGTON, *Saturday, January 11, 1873.*

WILLIAM H. CARSON sworn and examined.

By the CHAIRMAN:

Question. State where you reside, Mr. Carson.

Answer. I reside in Lawrence at this time.

Q. Where did you reside two years ago, when Mr. Caldwell was elected to the Senate?

A. I lived in Garnett, Anderson County, Kansas.

Q. Were you at Topeka at the time of that election?

A. Yes, sir.

Q. In what capacity or for what purpose were you there?

A. I was there in the capacity of a private citizen.

Q. Were you there for any particular purpose connected with the election?

A. I cannot say that I was, more than common interest.

Q. Were you there for the purpose of advocating the election of any particular person?

A. I went there; yes, sir.

Q. Who was it?

A. I went there to work in the interest of Mr. Clarke—Mr. Sidney Clarke.

Q. I will ask you if there was any money placed in your hands while you were there, by Mr. T. J. Anderson?

A. Yes, sir.

Q. How much?

A. Well, I do not know whether it was placed in my hands; it went through my hands.

Q. Who gave it to you? Who handed it to you?

A. Mr. Anderson.

Q. How much was it?

A. A thousand dollars.

Q. For what purpose was it handed to you?

A. I was to use it.

Q. How were you to use it?

A. I was to give it to a gentleman, a member of the legislature.

Q. Who was he?

A. Well, I would rather not state his name if I could be excused.

Q. We cannot excuse you, sir.

A. I will say this: that the gentleman did not vote.

Q. We will come to that by and by.

A. His name was Mr. Crocker.

Q. Was he member of the legislature?

A. Yes, sir.

Q. From what county?

A. From Linn County.

Q. Were you to pay him this money for his vote?

A. Yes, sir.

Q. Who was he to vote for?

A. He was to vote for Mr. Caldwell.

Q. Was he to vote for Mr. Caldwell for the Senate?

A. Yes, sir.

Q. Had you seen him before?

A. Mr. Crocker?

Q. Yes.

A. O, yes, sir; I have been acquainted with him for many years.

Q. Had you seen him before in regard to this business, and made an arrangement with him for his vote for Mr. Caldwell?

A. Yes, sir; I had been talking with him.

Q. Had you made an arrangement with him that he should vote for Mr. Caldwell for a consideration?

- A. Yes, sir.
- Q. Had he agreed to vote for him?
- A. Yes, sir.
- Q. For what sum?
- A. For a thousand dollars.
- Q. That arrangement was made at Topeka?
- A. Yes, sir.
- Q. When was that arrangement made?
- A. That was five or six days, or a few days, before the senatorial election came on.
- Q. Had he fixed the price, or did you fix it?
- A. He fixed it.
- Q. You say that Mr. Anderson gave you a thousand dollars?
- A. Yes, sir.
- Q. Did you pay it to Mr. Crocker?
- A. I will not be positive whether Mr. Anderson handed the money to me or to Mr. Crocker; I will not swear positively.
- Q. The money was paid by Anderson to you or to Crocker?
- A. We three were together.
- Q. Did the money go into Crocker's hands?
- A. Yes, sir; it went into Mr. Crocker's hands.
- Q. You say Mr. Crocker did not vote?
- A. No, sir.
- Q. How did that come?
- A. I do not know, sir.
- Q. Was he present when the election took place?
- A. Yes, sir.
- Q. Did he not vote either way?
- A. He voted, I believe, for Mr. Snoddy.
- Q. How was that?
- A. I think he voted for a man named Snoddy.
- Q. For the Senate of the United States?
- A. Yes, sir.
- Q. Why could he not keep his agreement?
- A. I could not tell you, sir.
- Q. Did he pay the money back?
- A. Yes, sir.
- Q. To whom?
- A. To me. He paid it to me.
- Q. Was that after the election or before when he gave the money back?
- A. That was after the first vote, on the first day.
- Q. But before the joint convention?
- A. Yes, sir.
- Q. Between the two votes?
- A. Yes, sir.
- Q. Where did he pay the money back?
- A. In the capitol.
- Q. In the capitol building?
- A. Yes, sir.
- Q. Did he give you any reason why he did not vote for Mr. Caldwell and paid you the money back?
- A. I cannot remember now, sir. He said he did not do it. Of course, I knew that.
- Q. Did he tell you to give the money to Mr. Anderson?
- A. I do not remember.
- Q. Did you tell him you would?

A. I think I did.

Q. It was paid back to you for that purpose?

A. Yes, sir; I thought so.

Q. Not for any other?

A. No, sir.

Q. Did you pay the money to Mr. Anderson?

A. No, sir.

Q. Have you ever paid it to him?

A. I have not.

Q. Has Mr. Anderson ever called on you for it?

A. No, sir.

Q. Did he ever send an order to you for it?

A. No, sir.

Q. Has he ever made any demand upon you for it?

A. No, sir.

Q. Have you ever seen him since?

A. I saw him since we started here, and I believe once since.

Q. You have seen him since you started here?

A. Yes, sir; at Kansas City.

Q. Did he say anything about it then?

A. No, sir.

Q. Was that a short time after the election?

A. That was a few days ago. I believe I saw him once, about a year ago, since that, but not to speak to him, I think.

Q. Now state to the committee if you know anything else or any other matter touching the use of money or corrupt means to secure votes for Mr. Caldwell, either by Mr. Caldwell himself or by any of his friends.

A. I do not know of anything, sir.

Q. You know of no other transaction?

A. Nothing definite.

Q. When this money was handed to you by Mr. Anderson, or to Mr. Crocker in your presence—you do not know which it was—was the statement repeated there, or the agreement repeated at that time which Mr. Crocker had before made with you, that he would vote for Mr. Caldwell?

A. Yes, sir; that he agreed to do it.

Q. You had made the arrangement with Crocker before the time when the money was paid?

A. Yes, sir.

Q. When the money was paid, was the understanding repeated there in the presence of Anderson, that Crocker would vote for Mr. Caldwell?

A. Yes, sir.

Q. And he took the money expressly on that condition?

A. Yes, sir.

Q. Was anything said by Anderson at that time as to where the money came from or whose it was?

A. Not that I recollect of.

Q. Do you know of any other of Mr. Caldwell's friends, Len. T. Smith, or George Smith, paying or proposing to pay money to anybody else for votes?

A. I do not.

Q. This is the single transaction that you are acquainted with?

A. Yes, sir.

By Mr. TRUMBULL :

Q. How did it happen ; you said you went there in the interest of Mr. Clarke——

A. Because I was a friend of Mr. Clarke.

Q. How did it happen that you were using money to get Mr. Caldwell elected ?

A. That was after Mr. Clarke's chances had passed.

Q. You adhered to Mr. Clarke until you thought he could not be elected, and then went for Mr. Caldwell ?

A. Yes, sir.

Q. Did you have any inducements to go for Mr. Caldwell yourself ?

A. Nothing particular.

Q. Anything in general ?

A. Well, I cannot say that I had.

Q. How came you to go for Mr. Caldwell ; what was your inducement ?

A. Well, the inducement was ——

The CHAIRMAN. Speak out, Mr. Carson, so we can hear you.

The WITNESS. The inducement—this vote—the gentleman wished to dispose of it at that time.

By Mr. TRUMBULL :

Q. What made you take such an interest for Mr. Caldwell ; what made you go for him ; who approached you on the subject ?

A. I do not know. I talked with several men.

Q. How were you interested ; how did they interest you for Mr. Caldwell ?

A. Well ; I supposed I could make something out of it.

Q. How did you expect to make something out of it ?

A. Well, I supposed I could get paid for my services if I could render any.

Q. Who proposed to pay you for your services ?

A. I cannot recollect. Several persons.

Q. Can you name one ?

A. I cannot just now recollect.

Q. You are sure a proposition was made to pay you for your services ?

A. I think so, in common.

Q. Did you get pay for your services ?

A. Yes, sir.

Q. Who paid you ?

A. Well, I retained that thousand dollars.

Q. Did you have a promise of any of the money that was first paid over to Mr. Crocker ? Did you have a promise of any pay ?

A. I cannot say whether it was a promise of money ; but, "If you will assist us we will do what is right," gentlemen said.

Q. Who said that ?

A. I cannot just recollect. A number of men made that remark who were in the interest of Mr. Caldwell.

Q. You cannot remember any one of them ?

A. No one in particular. There were a number of them there. I know one man, Mr. Smith ; not Len. Smith. I believe his name is George Smith ; I used to be well acquainted with him. His name was George Smith.

Q. Did Mr. Crocker go up to the legislature as an original Clarke man ?

A. No, sir.

Q. Who was he for when he was elected, if he was understood to be for anybody?

A. For Mr. Snoddy.

Q. He voted for the same man he was originally elected to support?

A. Yes, sir; he did on the first ballot. On the second ballot I cannot say who he voted for.

By the CHAIRMAN:

Q. You stated that you were told that you would be paid for your services if you would assist in Mr. Caldwell's election. Now, Mr. Carson, state in what way you expected to be paid. Were you to be paid in money?

A. Well, I supposed so.

Q. Was there anything said to you about how much you were to get?

A. Nothing definite.

Q. How did you come in the first place to see Mr. Crocker and make this arrangement with him? Were you sent to Mr. Crocker to solicit him; to go and approach him?

A. I cannot say that I was. I was well acquainted with him.

Q. In what way were you to be paid? Were you to be paid so much for every vote you could get? Was that it?

A. Yes, sir.

Q. How much for a vote?

A. Well, \$1,700 for that one.

Q. Were you to get \$1,700?

A. Yes, sir.

Q. If you got that vote you were to get \$1,700?

A. Yes, sir.

Q. Was the thousand dollars paid to Crocker to come out of your \$1,700, or were you to get \$1,700 besides that?

A. No, sir; I was to get \$1,700.

Q. And then to get the vote for what you could?

A. Yes, sir.

Q. You were to get \$1,700 if you could get Crocker's vote?

A. Yes, sir.

Q. There was a thousand dollars paid to him, which would leave you \$700 for your services?

A. Yes, sir.

Q. Did you get \$1,700?

A. No, sir.

Q. You never got the other \$700?

A. No, sir.

Q. Did you ever ask for it?

A. No, sir.

Q. Did you get this thousand dollars Mr. Crocker paid back to you for your services?

A. Yes, sir.

Q. You considered that that was your money, did you?

A. Yes, sir.

By Mr. ANTHONY:

Q. Who agreed to pay you \$1,700?

A. Mr. Thomas Anderson.

By the CHAIRMAN:

Q. Did Mr. Anderson make that agreement with you?

A. Yes, sir.

By Mr. ANTHONY :

Q. He agreed to pay you \$1,700 if you would get the vote of Mr. Crocker ?

A. Yes, sir ; that is my recollection.

By Mr. CALDWELL :

Q. Where did you see me first ?

A. At the senatorial election.

Q. When was the first time you ever met me in your life, and where ?

A. In Leavenworth City.

Q. Did you ever speak to me ?

A. I did not, sir.

Q. I want that to be distinctly understood. You never spoke to me in your life until now.

A. Well, perhaps I have spoken to you on the street.

Q. Were you ever introduced to me ?

A. No, sir ; not to my knowledge.

Q. Did you ever have any conversation with me ?

A. Never.

Q. When did you first negotiate for Mr. Crocker's vote ?

A. Well, I think it was four or five days before the vote was taken. I cannot tell about that.

Q. When did Mr. Clarke withdraw ?

A. I think he withdrew on the 19th ; on the night before the 20th, I think.

Q. When was the election ?

A. On the 20th ; the first vote, I think.

Mr. TRUMBULL. The date is given here in the record. The 24th was when the first vote took place.

The WITNESS. Well, I cannot be positive about that.

By Mr. CALDWELL :

Q. The first vote was on the 24th and the next on the 25th. You say you commenced negotiating three or four days before the first vote for Crocker ?

A. Yes, sir.

Q. Had Mr. Clarke withdrawn from the canvass at that time ?

A. No, sir ; not at that time.

Q. Were you here last winter and spring ?

A. I was here last spring.

Q. What were you doing here ?

A. I came down here to collect a claim I had against the Government, or to see about it.

Q. Did you prepare an affidavit when you were here last spring ?

A. I did.

Q. Concerning my election ?

A. Yes, sir.

Q. Did you propose to sell that affidavit to me ?

A. No, sir.

Q. Did you propose to anybody else that if they would pay you money you would not publish that affidavit ?

A. No, sir ; I have no recollection about that.

Q. I want you to recollect distinctly about this. Did you not tell Mr. I. S. Kalloch, of Kansas, that you had an affidavit prepared in regard to my election, which you would publish if you were not paid for it ?

A. I did not, sir.

Q. Did you not tell M. A. Inchley, of Kansas, that you had such an affidavit?

A. I told him I had such an affidavit.

Q. What did you prepare it for?

A. I thought of publishing it at the time.

Q. What was your object in doing that? What did you expect to make by that?

A. My information was that the senatorial matter had passed over; but I was not before the committee, and I wanted to set myself right before the community; that was all.

Q. Did you not propose publishing it with a view of getting money from me?

A. No, sir.

Q. Did you not tell F. E. Collins, of Kansas, that you had such an affidavit, and if I would pay you \$100 you would not publish it?

A. No, sir; I never did.

The CHAIRMAN. I suggest, as these questions are being put with a view of laying the foundation of impeachment, that the time and place be named.

Mr. CALDWELL. These transactions that I speak of occurred here in May or June last, toward the close of the session. [To the witness.] Were you here at that time?

A. Yes, sir.

Q. That is the time you prepared this affidavit?

A. Yes, sir.

Q. Do you know Judge Crozier, of Leavenworth?

A. Yes, sir; I know the judge by sight.

Q. Did you not see him at the senatorial election?

A. Yes, sir.

Q. Did you have any conversation with him?

A. I had some.

Q. What and where was that conversation?

A. At the Tefft House.

Q. What part of the Tefft House?

A. I think in the judge's room. I supposed it was the judge's room. I think perhaps the parlor.

Q. What was that conversation?

A. I do not remember now.

Q. Can you not recollect anything at all about it?

A. Perhaps if I could——

Q. I will refresh your memory. Did you not propose at that interview to sell Judge Crozier thirteen votes for me?

A. Perhaps I did, sir.

Q. Are you not certain you did?

A. I would not be certain.

Q. You think you did?

A. I think perhaps we talked something about it.

Q. Did you not tell Judge Crosier at that time that Mr. Clarke was willing to pay something for them, but you wanted to get the most you could?

A. I think not.

Q. What did you say?

A. I was talking with the judge something like this: If I should buy a member could I take a receipt, or would there be any way to put a

guard on it, and I, knowing the judge was a lawyer, asked him, and he said not.

Q. What did the judge tell you?

A. He said not; that it would have to be a matter of honor; that there was no way of putting it.

Q. Did Judge Crozier buy the votes from you?

A. No, sir.

Q. Did he offer to buy them?

A. No, sir.

Q. What did he say about buying them?

A. That is about what the judge said—that there was no way at all.

Q. No way to do the business?

A. No, sir.

Q. Did Judge Crosier refer you to anybody?

A. I think not, sir.

By the CHAIRMAN:

Q. You spoke about making an affidavit. Where was that affidavit prepared—here?

A. Yes, sir.

Q. At what time?

A. Some time in the month of May.

Q. Had you been subpoenaed to attend the examination here?

A. No, sir.

Q. In the Pomeroy case?

A. No, sir.

Q. You prepared this affidavit here?

A. Yes, sir.

Q. How did you come to do it?

A. I thought of publishing it.

Q. Was that last May?

A. Yes, sir. To give you a better understanding of it, I had been considerably abused through the papers in my State, and I supposed the thing had passed over, and I wanted to set myself right.

By Mr. TRUMBULL:

Q. That is, you thought this investigation was over?

A. Yes, sir; I thought there would be nothing of it.

By the CHAIRMAN:

Q. Have you got that affidavit?

A. No, sir.

Q. What became of it?

A. It is at my home, I think.

Q. Was that affidavit prepared with the knowledge of anybody here? Did you draw it up yourself?

A. No, sir; I got an attorney.

Q. Were you sworn to it?

A. No, sir; I never was sworn to it. It was just drawn up blank.

Q. How did Mr. Caldwell know anything about the affidavit?

A. Why, I showed it to Mr. Kalloch. He saw it.

Q. Was Mr. Kalloch here?

A. Yes, sir.

Q. Who was Mr. Kalloch?

A. He is a gentleman that is a very prominent man in our State.

Q. Was Mr. Kalloch Mr. Caldwell's friend?

A. I could not say whether he is or not.

Q. Did Mr. Kalloch tell Mr. Caldwell about it?

A. I do not know that he did.

Q. How did you come to show it to Mr. Kalloch?

A. Well——

Q. Did you show it to him for a purpose, and, if so, for what purpose?

A. I do not know that I had any purpose. I told him what I had a notion of doing.

Q. Were you present at the examination in Kansas?

A. No, sir.

Q. Where were you at that time?

A. I was in Missouri.

Q. Had you been subpoenaed to attend that examination?

A. Yes, sir.

Q. Why did you not attend?

A. Well, sir, the prime reason was that I supposed it was a matter of mere farce in our State, and I did not care about divulging the gentleman's name I have here. That was my only object.

Q. Did you go to Missouri to avoid being compelled to attend that examination?

A. I did, sir.

Q. You spoke about having had a conversation with Judge Crozier. How did you come to speak to Judge Crozier about that matter?

A. Because I knew the judge to be a good attorney.

Q. Was that all the reason?

A. Yes, sir.

Q. Was he acting as the attorney or friend of Mr. Caldwell at the time?

A. I could not say, sir.

Q. You had no knowledge of that kind? You rather intimate that you may have spoken to him about a contract for thirteen votes?

A. I could not say about that. I spoke to him what I told you.

Q. Did you talk to anybody about being able to deliver thirteen votes?

A. Perhaps I might, sir.

Q. Were those to be delivered for Mr. Caldwell or for somebody else, or for whoever would pay the most for them?

A. I should suppose I would dispose of it where I could have made the most.

Q. Wherever you could get the most for the article?

A. Yes, sir.

Q. Did you say anything about that proposition to Mr. Anderson? In other words, did you make a contract with Mr. Anderson for the thirteen votes, or only for one vote—Crocker's vote?

A. Only the one. That was the only transaction we talked about.

Q. Did you talk to Mr. Anderson about getting anybody else to vote for Mr. Caldwell besides Mr. Crocker?

A. I do not remember. Perhaps I did. It has been two years ago.

Q. Was that about the time of the conversation with Judge Crozier?

A. Yes, sir, within a few days.

Q. If you thought when you talked with Judge Crozier that you would be able to deliver thirteen votes, did you not have the same idea when you talked to Mr. Anderson?

A. No, sir; they had some of them changed their minds.

Q. Then you had spoken to others besides Mr. Crocker?

A. I think so.

Q. Had they at one time agreed that they would vote for a consideration?

A. I could not say that they had.

Q. How can you say they had changed their minds?

A. Afterward I talked with them and they talked different.

Q. When you talked to them first they talked as if they would vote for a consideration?

A. Yes, sir; some of them did.

Q. Who were these "some" that thus talked?

A. I cannot recollect.

Q. Can you not recollect one of them?

A. I cannot.

By Mr. CALDWELL:

Q. You say you had some claims against the Government to collect.

A. Yes, sir.

Q. When you were here last May and June.

A. Yes, sir.

Q. Did you not tell Colonel Insley, of Kansas, that if I would buy those claims of you you would surrender that affidavit?

A. I could not be positive about that.

Q. Did you have a conversation about it?

A. Yes, sir; I had a conversation with Mr. Insley.

Q. About those claims and that affidavit?

A. I had a conversation with him.

Q. About those claims?

A. Yes, sir. I was trying to sell them to him.

Q. You proposed to surrender that affidavit to him if I would take the claims. What is your occupation?

A. My occupation has been a merchant until the last two years.

Q. Are you a merchant now?

A. No, sir.

Q. Are you in any business?

A. I have been trading in stock for the last year.

By Mr. CLARKE:

Q. Did you go to Topeka in response to a summons from a committee of the Kansas legislature?

A. Yes, sir.

Q. And immediately left?

A. Yes, sir.

Q. Were you requested by any person to go out of the State during that examination? Were you asked to go out of the State?

A. Yes, sir.

Q. By whom?

A. Mr. Legate.

Q. James F. Legate?

A. Yes, sir.

Q. Did he meet you when you arrived there at the hotel or omnibus?

A. Yes, sir; I saw him at the hotel.

Q. Did he request you to leave by the next train?

A. Yes, sir.

Q. And you did so?

A. Yes, sir.

By Mr. TRUMBULL:

Q. Did he pay you anything for leaving?

A. He gave me enough money to bear my expenses.

Q. How much?

A. Twenty-five dollars.

Q. Was that all he gave you?

A. Yes, sir.

Q. Whose friend is he?

A. I cannot tell whose friend he is.

Q. At the time of the senatorial canvass whose friend was he?

A. He was supposed to be the friend of Mr. Caldwell.

Q. What reason did he give you for wanting you to leave the State?

A. I do not remember.

Q. Was it to prevent your testifying? Was that the object?

A. Yes, sir; of course it was.

By Mr. CLARKE:

Q. Was not Legate regarded as the special and particular friend of Mr. Caldwell, managing his canvass in the legislature?

A. Yes, sir.

Q. You so regarded him?

A. Yes, sir.

WASHINGTON, D. C., *January 11.*

WILLIAM SPRIGGS recalled.

By the CHAIRMAN:

Question. If I remember aright, in your testimony you stated that in that conversation with Mr. Caldwell, he made some suggestion to you, and you expressed your willingness to go into this service, I think, in reference to that committee, provided Legate was not allowed to come around?

Answer. Yes, sir.

Q. Now state why it was that you objected to Legate. What was Legate's position there?

A. Mr. Legate was a member of the legislature; of the house, I believe; he was a member of either the house or the senate.

Q. Why did you object to Mr. Legate knowing anything about it, or coming around?

A. Mine was a personal objection.

Q. A personal difficulty?

A. Well, it was personal dislike.

Q. Was that all?

A. Yes, sir.

Q. Was he a prominent friend of Mr. Caldwell?

A. Yes, sir; he was an active friend.

WASHINGTON, D. C., *Saturday, January 11, 1873.*

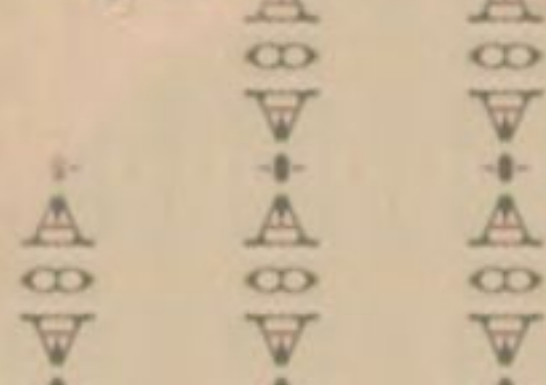
THOMAS J. ANDERSON sworn and examined.

By the CHAIRMAN:

Question. Where do you reside?

Answer. At Topeka, Kansas.

Q. Did you live there two years ago, at the time of this election?



A. Yes, sir.

Q. State whether you were present in Topeka when this election took place.

A. I was.

Q. State whether you took any part in that election.

A. I did.

Q. In behalf of whom were you interested yourself?

A. Mr. Caldwell.

Q. State, Mr. Anderson, to this committee what you know, if anything, in regard to the use of money or other corrupt means to procure votes for Mr. Caldwell for the Senate, either upon the part of Mr. Caldwell or any of his friends.

A. I know of no money being used to purchase votes directly or indirectly.

Q. You know of no money used?

A. No money. I expended some money as the agent of the road in our own legislative matters in dining and wining members, and so on, which is usual, I believe.

Q. You say you know of no money being expended in connection with Mr. Caldwell's election in the way I speak of.

A. No, sir.

Q. I will ask if you were present at one time at an interview between Mr. Carson and Mr. Crocker, a member of the legislature from Linn County?

A. I was interviewed by Mr. Carson; Mr. Crocker I do not know. I might possibly have spoken to Mr. Crocker during the session, as I did to all the members probably, at some time during the session. Personally I do not know him, and never had any conversation with him on that subject.

Q. Did you make any arrangement with Mr. Carson by which he was to procure the vote of Mr. Crocker for Mr. Caldwell?

A. No, sir.

Q. You state that unqualifiedly?

A. I state it unqualifiedly and most positively.

Q. You say you never made any arrangement with Mr. Carson to that effect?

A. The only thing I did was to draw Mr. Carson out and find out what kind of man he was. It was well understood among our friends that he came there in the interest of Mr. Clarke. He called me out and wanted to talk with me about the matter.

Q. Do you know Mr. Spriggs?

A. I do.

Q. Did you ever have a conversation with him in regard to some money which was in Mr. Carson's hands, which had been paid back to him by Mr. Crocker?

A. I think not.

Q. Are you sure of it?

A. I am very positive.

Q. I will ask you whether you presented to Mr. Spriggs an order on Mr. Carson, which you desired him to take down and collect?

A. No, sir; I did not.

Q. Did you tell Mr. Spriggs at any time that there was a thousand dollars in Mr. Carson's hands that he should pay back?

A. No, sir; I would not trust Mr. Carson with a thousand mills.

Q. Do you recollect having any conversation with Mr. Spriggs at all?

A. I conversed with Mr. Spriggs frequently during the canvass.

Q. Do you know how Mr. Crocker voted?

A. I do not; he did not vote for Mr. Caldwell. I have a letter from Mr. Crocker on that subject which was published at the time or shortly after. [The witness exhibits a printed slip from a newspaper and hands it to the chairman.]

Q. You state that no transaction or conversation of that kind ever occurred between you and Mr. Spriggs?

A. I am positive of the matter. Of course, my recollection may be at fault. I am very sorry to differ with Mr. Spriggs.

Q. Do you know Mr. D. M. Adams?

A. I do.

Q. Where does he live?

A. At Topeka.

Q. What is his business?

A. He is president of the Kansas Valley National Bank.

Q. By the way, let me ask you if you were examined as a witness before the Kansas legislative committee?

A. I was examined in the Woods case.

Q. But in this case of Mr. Caldwell?

A. No, sir.

Q. Were you subpoenaed?

A. Yes, sir.

Q. Why did you not attend?

A. Myself and friends conceived that the investigation was gotten up on the part of Mr. Clarke to revenge himself, and we did not regard it as being a fair investigation, and I did not attend.

Q. Did you leave the State?

A. Yes, sir.

Q. Where did you go?

A. I went to Missouri and Iowa.

Q. Did you have any conversation with Mr. Carson about that time?

A. No; I think not.

Q. Did you know that he left the State for the purpose of avoiding an examination?

A. I did not.

Q. Did you see Mr. Legate about that time?

A. Mr. Legate was there during the entire examination, up to the time I left.

Q. Did Mr. Legate advise you to leave the State?

A. No, sir.

Q. Was Mr. Caldwell there?

A. No, sir.

Q. You say it was conceived on the part of yourself and Mr. Caldwell's friend—what other friends?

A. Myself and my friends, and of course they were friends of Mr. Caldwell, mutually.

Q. Suppose the examination was gotten up in this way, on the part of Mr. Clarke, why should that present an objection to your testifying, if you did not know anything about it, to Mr. Caldwell's injury?

A. I just simply took that course in the matter.

Q. Why was your objection to testifying so strong as to induce you to leave the State and avoid the committee?

A. It was very little trouble to leave; only 65 miles. I was back and forth frequently. The members of the committee knew I was in town. They saw me and the sergeant-at-arms did. The truth of the matter is, they did not want to examine me.

Q. You did not want to be examined ?

A. No, sir.

Q. If you did not want to be examined, why did you go back and put yourself in the way of being picked up ?

A. I had business back home, and went there.

Q. I will ask you if you were reported by the committee of that legislature as being in contempt ?

A. Yes, sir. I know I was reported.

Q. I will ask if at any time Mr. D. M. Adams paid you the sum of \$7,000 in a draft on Len. T. Smith ?

A. Yes, sir ; it was paid in his bank.

Q. When was that ?

A. Well, I cannot tell exactly ; it was during the session of the legislature ; before the senatorial election.

Q. Was it before or after Mr. Caldwell's election ?

A. Before.

Q. How long before ?

A. I cannot tell ; I think several days before the election.

Q. Was it before the first ballot had been taken, or afterwards ?

A. It was before any ballot.

Q. But only several days before the election ?

A. That is my recollection.

Q. This \$7,000 was paid to you on the check of Len. T. Smith ?

A. The check was given by Len. T. Smith to Governor Carney. They asked me, knowing me to be a director in a bank, if I could cash it. I told them I would take it and do it as an accommodation and get the money, and I did give the money to Mr. Carney.

Q. What was that money to be used for ?

A. I have no idea.

Q. How did it come to be drawn on the check of Len. T. Smith ?

A. That I do not know.

Q. What connection had Len. T. Smith with Governor Carney in business matters ?

A. Well, I supposed them to be connected in some way, interested in the Missouri Valley Railroad, I believe, and other matters.

Q. Did you have no suspicion or information at the time that this money was to be used in connection with the election ?

A. I have no knowledge.

Q. Had you no opinion about it ?

A. No, sir ; I did not care about it.

Q. You drew the money and handed it to Mr. Carney ?

A. Yes, sir.

Q. Mr. Carney was there at the time, was he ?

A. Yes, sir.

Q. Why did not he draw it himself ?

A. I do not know. He asked me to draw the money. He gave me no reason. He handed me the check, and asked me if I could get the money. I told him I supposed I could.

Q. Did you indorse for Mr. Carney ?

A. I indorsed it, of course, in the usual way of transactions. I had to put my name on the check.

Q. Was it because the bank would not pay the check simply on Mr. Carney's indorsement without yours ?

A. It was made payable, as I recollect "Thomas Carney or order." He indorsed it, and of course I presented it and put my name on it.

Q. Did he indorse it to you ?

A. Not to me. He simply put his name on the back, and it is usual in parties presenting checks payable to order to put the name on the back.

Q. But this was indorsed by Mr. Carney.

A. Yes, sir.

Q. Mr. Carney is well known there?

A. Yes, sir.

Q. And a man of acknowledged means?

A. Yes, sir.

Q. There was no necessity, then, for having your indorsement upon this check?

A. Only this is simply the way of business transactions in the bank.

Q. But that would not require your indorsement where the indorsement was in blank.

A. I suppose it was at the option of the cashier.

Q. That would be required in a case where the party indorsing it was not known; but where the party was well known, as was Governor Carney, would it be required in that case? I ask as to the ordinary course of banking.

A. I think usually it would, probably.

Q. You know of no reason why Governor Carney asked you to draw the money and pass it over to him?

A. It was after banking-hours when he asked me. The bank was closed, and as it was after bank-hours I suppose that was his object. He said, "You are a director of the bank; can't you get the money?" and I told him I would see, and I went down to the cashier's room, and somebody gave me the money, asked me to sign the check, and I did so.

Q. Had you any arrangement with Mr. Caldwell before that time in regard to working for Mr. Caldwell?

A. Yes, sir; he asked me to assist him.

Q. How long before that?

A. Probably two or three months, I suppose.

Q. Had you any arrangement then, or at any time, by which he was to pay you for your services?

A. No, sir.

Q. Did he ever put any money in your hands directly or indirectly?

A. No, sir.

Q. Was Governor Carney a candidate for the Senate?

A. He was.

Q. Was his name presented in the ballot that was taken?

A. No, sir.

Q. Had his name been withdrawn at the time the ballot was first taken?

A. I am not positive whether he was voted for by any one; but it was understood that he was withdrawn.

Q. Before the vote was taken?

A. Yes, sir.

Q. Was there a report in circulation there that Governor Carney had withdrawn as a candidate in favor of Mr. Caldwell—was it understood?

A. Yes, sir; there was a report, a rumor of that kind, that Governor Carney had withdrawn from the canvass.

Q. Was there a rumor there to the effect that he had done that for a consideration, and that this \$7,000 was paid for that?

A. I am not positive; probably there was. There were rumors afloat of everything a man could conceive.

Q. You think there may have been a rumor that he was to have been paid for the withdrawal?

A. Yes, sir.

Q. Did you hear the sum mentioned?

A. I did not hear that he was to withdraw for any particular sum.

Q. But for money?

A. I probably heard a rumor of that kind, that he was to withdraw for money, but nothing positive.

Q. When this check, drawn by Len. T. Smith in favor of Carney, was put into your hands, and you drew the money for Carney, did you understand at that time that this money was paid to Carney in consideration of his withdrawing in favor of Caldwell and using his influence for him?

A. I most certainly did not understand anything of the kind.

Q. Did you know anything about the Doniphan County delegation?

A. I knew the members.

Q. Do you know how they voted?

A. I think they voted for Mr. Caldwell, with possibly one exception. I am not positive but what they all voted for him.

Q. Was there a report in circulation that they were to get \$7,000 for their votes?

A. I heard such a report circulated.

Q. Seven members of them, were there not, at \$1,000 apiece?

A. I do not know; I think so.

Q. Did you tell Mr. Adams at one time that Mr. Caldwell was to pay you for your services rendered in that election?

A. I think very likely I did.

Q. If you told Mr. Adams that, was it true?

A. No, sir; it was not true.

Q. What inducement had you to tell him that if it was not true?

A. Mr. Adams was a friend of Mr. Clarke, and I did not consider that it was any of his business to question me upon any such subject. He knew of a note being in his bank given by myself to Mr. Caldwell and indorsed by him, and I suppose took occasion to express it in a way to pump me, and I did not calculate that he should succeed. He was a friend of Mr. Clarke, and I did not drill in that company, and consequently I felt at liberty to make my own statement.

Q. Did you voluntarily make that statement to him or did he ask you?

A. He asked me a question.

Q. Did you tell him how much you were to be paid for it?

A. I do not remember that.

Q. Did you tell Mr. Adams in that conversation, or any other, that you were to get from Mr. Caldwell \$5,000 for your services?

A. I do not remember. I think likely I did.

Q. Which conversation was it?

A. I cannot tell. I had several conversations with him on the subject.

Q. You think it likely you mentioned that specific sum to him?

A. I think it likely I did.

Q. Who took up that \$3,500 note?

A. I did.

Q. Did Mr. Caldwell furnish you the money to take it up?

A. No, sir.

Q. What was the consideration of that note?

A. Well, I needed some money, and I asked Mr. Caldwell for his credit; I considered that I had been of sufficient service to him; and he granted it, and when the note was due I took it up myself.

Q. Was it understood at the time that it was to be a part of the \$5,000?

A. It was distinctly understood that it was not to be any part of any consideration. I think I gave Mr. Caldwell a letter at the time—I think I drew it up myself—stating that.

Q. When you told Mr. Adams that Caldwell was to pay you \$5,000 for your services, was that a statement made to him in reference to this \$3,500 note, in the way of showing him how you were to have the means of paying that note?

A. I think the matter came up by his asking me about the note, or how I came by it. I cannot tell now. I had a great many conversations about the matter.

Q. As to how you came by Mr. Caldwell's indorsement?

A. Yes, sir.

Q. You think it came up in a conversation as to how you came by Mr. Caldwell's indorsement?

A. Yes, sir.

Q. And then you told Mr. Adams that this was a part of the \$5,000?

A. I think he asked me if that was all I was to get. I might have stated five or ten thousand; I recollect of telling one gentleman that I got \$20,000; I think he believes it now.

Q. Did you say anything to Mr. Adams in that conversation about the remaining \$1,500 after deducting the \$3,500 from the \$5,000?

A. I think not. I am not sure as to that.

Q. Did you not tell Mr. Adams in that conversation that the remaining \$1,500 was to be paid to you in money by Mr. Caldwell?

A. I think not. I would not be positive as to the matter. I might have told him so.

Q. Do you know Mr. James McDowell?

A. I do; James L. McDowell.

Q. Was he present at that election?

A. He was there in the city.

Q. Was he acting as a friend of Mr. Caldwell?

A. Yes, sir. He was in the interest of Mr. Caldwell.

Q. Was he acting in connection with Mr. Len. T. Smith?

A. That I am unable to say. Leavenworth had a very large delegation there; they all acted together.

Q. I will ask you what you know about any agreement upon the part of the Kansas Pacific Railroad Company to defray a part of the expenses of Mr. Caldwell's election?

A. I know of nothing; I know of no such agreement.

Q. I will ask you what you know of Mr. Caldwell having subsequently called on any of the officers or agents of the road to defray a part of his election expenses?

A. I know nothing of it.

Q. Has Mr. Caldwell had any difference since that time with the officers of that road?

A. Not that I am aware of. My understanding has always been that he has been extremely friendly.

Q. Was there any other officer or agent of that road taking any part in that election?

A. Mr. Noble, the division superintendent, was there some of the time, occasionally between trains; and probably some other officers.

Q. On whom was that \$7,000 draft drawn?

A. I do not know. It was a Leavenworth bank. I do not know which one.

Q. Did you ever hear of it afterward?

A. No, sir.

Q. You do not know whether it was paid or not?

A. I do not. As I understand it, if my recollection serves me, it was not a draft; it was a check.

By Mr. TRUMBULL:

Q. A check on the bank in favor of Mr. Carney?

A. Yes, sir.

By the CHAIRMAN:

Q. What was the length of time this \$3,500 note had to run?

A. Eighteen months.

Q. Was not that a little beyond the ordinary business of banking?

A. Yes, sir; and they would not take the note. I put the note as collateral simply.

By Mr. TRUMBULL:

Q. How long had you known Mr. Caldwell?

A. I have known him intimately since 1865, I believe. Mr. Caldwell, I think, came to Kansas when I was in the service, and I probably met him a few times during the war, and have met him since the war.

Q. Have you ever had any business relations with him?

A. Nothing except his loaning me his credit on this note.

Q. When did you go to Topeka?

A. I went to Topeka in April, 1865.

Q. You have resided there ever since?

A. Yes, sir.

Q. In the same capacity?

A. No, sir; I went there as adjutant-general of the State, and served until August, 1867, and then was appointed agent of the Kansas Pacific Railroad, and have been that ever since.

Q. Do your duties as agent keep you at Topeka, or are you traveling?

A. At Topeka. I act as the local agent.

Q. You interested yourself somewhat in Mr. Caldwell's behalf in the election?

A. Yes, sir.

Q. Do you know the amount of money you spent in his behalf?

A. No, sir.

Q. Have you any idea of it?

A. No, sir; I spent nothing in his behalf, particularly.

Q. I understood you to say you gave champagne suppers, &c.?

A. That was on our own account on railroad matters. We had important legislation.

Q. Those were paid for by the railroad and not by you individually?

A. Yes, sir.

Q. Do you know the amount expended by the railroad company during the canvass?

A. I do not know exactly.

Q. Was that chiefly during the canvass for Senator?

A. Most of it was just before the organization of the house and looking after the organization of the committees and the election of speaker.

Q. Have you the means of determining how much money was used by the Kansas Pacific Railroad during the pendency of this election?

A. No, sir; I have not.

Q. Could it be ascertained?

A. I think not; not that I know of.

Q. How was the money paid? Who was it drawn from?

A. I was in the habit of drawing; the attorney would draw, sometimes the agent, for the amount necessary, when we did not have the funds.

Q. Would not the books show it?

A. My books would not show it.

Q. Would not the books of the treasurer?

A. They might possibly. I could not say.

Q. What is his name?

A. Mr. Greeley.

Q. Is he now treasurer?

A. Yes, sir.

Q. Where are his books kept?

A. In Saint Louis.

Q. Is he at Saint Louis now?

A. I think so. His office is at Saint Louis.

Q. Was the money you drew, and the attorney drew, drawn from the treasurer during that time?

A. The attorney is in the habit of drawing whenever he requires funds, and I cash the drafts and remit the drafts as cash on my balance to the treasurer.

Q. Would the draft show for what service it was drawn?

A. No, sir.

Q. The attorney draws without showing on the face of the voucher for what object?

A. Yes, sir.

Q. Did you do so also?

A. Yes, sir. My matters are always so that I have a balance to cover my expenditures, which are more than my receipts at the local station, in paying the balance to the other roads; we have a crossing there, and a change of business. My drafts are charged up to me on that score.

Q. I want to know whether, by sending for these books and officers, we can ascertain exactly how much money was expended by your road during that contest?

A. That I cannot tell?

Q. You cannot tell whether the books will show it?

A. I cannot.

Q. Your account will not show it?

A. Nothing of the kind. I simply remitted drafts as so much cash when I cashed them.

Q. What drafts do you mean?

A. Drafts made by the attorney on the treasurer.

Q. Do I understand you to say that the business of the road is done in that way? That you draw out *ad libitum*, and there is no means of determining for what?

A. I suppose the treasurer's books will show, but I have never looked at them. I do not know the system on which they are kept. I do not know anything about the arrangement between the attorney and the treasurer. I know that a draft was made some time ago that Colonel Dennis said was for paying a judgment in the Supreme Court, and there was nothing on the face of the draft to show that.

Q. Who is the attorney of the road?

A. Colonel Dennis.

Q. Did he reside at Topeka at the time?

A. Yes, sir; he is the assistant solicitor of the road.

Q. Did he interest himself in behalf of Mr. Caldwell?

A. He was friendly to Mr. Caldwell.

Q. And was Mr. Noble?

A. Yes, sir.

Q. And were you?

A. Yes, sir.

Q. It so happened that all the officers of the road were friendly to him?

A. Yes, sir; so far as I know.

Q. And all took an interest in his election?

A. Yes, sir.

Q. Now, I understand that you never paid any money to Mr. Carson or Mr. Crocker?

A. I never gave Mr. Carson nor Mr. Crocker a dollar that I know of. I might possibly have given either of them a few dollars if they asked me for it as a loan, but I do not think that I gave them anything during that canvass, because Mr. Crocker was on the other side of the house, and, of course, he would not ask me for a favor.

Q. And you never told Judge Spriggs that you had done so?

A. No, sir.

Q. Nor any other persons?

A. No, sir.

Q. And this \$7,000 check that you got cashed, you have no idea what it was for?

A. I do not know what it was for.

Q. Have you any idea what it was for?

A. No, sir.

Q. Did you know, or not, that Governor Carney was taking an interest in the election of Mr. Caldwell?

A. Yes, sir. Governor Carney was taking an interest in Mr. Caldwell's election, and so was Mr. Smith.

Q. At the time that draft was cashed?

A. Yes, sir. I was asked to cash it, and I did it.

Q. You state that it is usual, in cashing a check payable to order and indorsed by the man in favor of whom it is drawn, to be indorsed by a third party?

A. I understand that to be at the option of the cashier.

Q. I understand you to say, as a business man, that a check on a bank, indorsed in blank, is indorsed also by the person presenting it?

A. That check was not on a bank in the town.

Q. Some other bank?

A. Yes, sir; that is why they asked me for my indorsement. It is usual.

Q. How was the check drawn?

A. It was drawn on a bank in Leavenworth; I do not remember what bank.

Q. What was the date of the \$5,000 note?

A. I know of no such note.

By the CHAIRMAN:

Q. The \$3,500 note; you spoke of one?

A. Yes, sir.

By Mr. TRUMBULL:

Q. What was the date of that?

A. I think it was drawn in March or April, probably. It was the spring following the election.

Q. What did you do with that money?

A. I used it in my business.

Q. What business?

A. Well, I am interested in various business matters there.

Q. That is a considerable amount of money. I understand you to be the local agent of this railroad?

A. Well, I handle considerable money.

Q. What did you do with the \$3,500 you obtained on that check?

A. I presume I used a part to pay on a house I had bought.

Q. To whom?

A. I bought the house of T. B. Mills.

Q. How much did you pay of that \$3,500 to him?

A. I do not know.

Q. You got it for a purpose if you raised money?

A. I do not know. I needed the money. I used it in business. I am interested in lumber business.

Q. You ought to recollect where you used \$3,500.

A. I do not know that I can. I probably ought to. I used a great deal more than that in the course of a year.

Q. But at that time?

A. This was in the spring. I bought the house, and I think the first payment was to be made in May. I gave him \$9,000 for it; \$3,000 the 1st of May, \$3,000 in one year, and \$3,000 in two years, with interest at ten per cent. per annum. The last note is not paid yet—not due.

Q. When did you receive this money on this accommodation note?

A. I used this note as collateral in the Kansas Valley National Bank, and borrowed the money there.

Q. When?

A. I suppose a short time after I got it. I think the latter part of March or the first of April, or somewhere there. I think the note was due the 30th of October last.

Q. I merely want to know when you got the money out.

A. That I cannot tell exactly.

Q. The date of this note is stated in this paper (report of Kansas legislative committee) to have been shortly after the senatorial election. Did you get the money on the note when you deposited it?

A. No, sir; I made my own note on the bank. It was only loaned for a short time; ninety days, I believe, in that matter, and I put this note as collateral.

By the CHAIRMAN:

Q. You state that you drew your own note for a certain sum of money upon which you borrowed the money. What is the amount of your note which you thus negotiated?

A. I am not positive whether it was \$2,500 or \$3,000.

Q. Then you deposited as collateral security this draft of Mr. Caldwell, or whatever it was?

A. It was my note, indorsed by him.

Q. You made your note payable to Mr. Caldwell, and it was by him indorsed?

A. Yes, sir; but the time was too long and the bank did not want to cash it, and said I should make my note and they cashed it.

Q. You took up your note when due for the \$2,500 or \$3,000?

A. Yes, sir.

Q. And they handed you back Mr. Caldwell's note?

A. Yes, sir; and the transaction was ended.

Q. Now, what has become of that note that Mr. Caldwell indorsed? Is it still in your possession?

A. No, sir; that note is destroyed. I had no further use for it.

Q. And you destroyed it?

A. Yes, sir.

By Mr. TRUMBULL:

Q. You said you gave Mr. Caldwell a letter. What was that letter about?

A. He wanted me to give him a statement in writing that I would pay the note when it was due; which I did, if my recollection serves me aright.

Q. To the purport that you would pay the note?

A. Yes, sir.

Q. Would you not have been bound to pay it by its terms?

A. Yes, sir.

Q. Was that the only object of giving such a writing?

A. I suppose so. Mr. Caldwell is reputed to be a shrewd business man, and wanted to make the matter binding.

Q. Was that all that was in the letter?

A. That was all, sir.

Q. You say, then, to the committee that you raised \$2,500 or \$3,000 on your own note for a short time at the time this transaction took place, with a view of making the payment that was due in May on your house?

A. Yes, sir; I think that I used part of it for that.

Q. Would you have drawn money two months in advance to pay on a house two months before it was due?

A. I do not know that I made the note in the bank then. I do not suppose I made the note, if I used it for that purpose, until the time I was to use the money. I am sure I did not pay twelve per cent. for two months and let the money lie idle.

Q. Have you any recollection that you got the money for that purpose?

A. I think I did.

Q. As Mr. Adams is summoned as a witness, we can inquire of him, probably, as to these dates?

A. Yes, sir.

By Mr. LOGAN:

Q. Did you draw any other check on that bank or any other person, payable and paid by that bank during the session of the legislature there?

A. No, sir; I did not, I believe.

Q. Did you, in connection with a man named Dennis, draw a check or make a draft on the treasurer of the Kansas Pacific Railroad?

A. Colonel Dennis made a draft on the treasurer, and they did not have money enough to pay it, and I cashed it in the bank.

Q. How much was that?

A. I think it was \$10,000.

Q. Who is Mr. Dennis?

A. He is the assistant general solicitor of the Kansas Pacific Railroad.

Q. He drew a check. How was it drawn; by him or by both of you?

A. He made a draft on the treasurer. He drew on the treasurer, in Saint Louis, as he is in the habit of doing, for money. I take these drafts and cash them, and remit them to the treasurer as cash. I recollect cashing one in the bank; I do not remember whether that was the particular one; I did not have currency enough to cash it.

Q. Do you know the purpose for which that money was obtained?

A. No, sir.

Q. Did you get any portion of it?

A. No, sir.

Q. How long did Colonel Dennis remain there after he drew this money?

A. He has been there ever since. He has never been away but a day or two at a time along the line of the road.

Q. Does he reside there?

A. Yes, sir; that is the headquarters of the law department.

Q. Do you know the date of the receiving of this \$10,000?

A. No, sir.

Q. Or about the time?

A. Well, it was some time during the fore part of the session; before the election, I think. I would not be positive as to that.

Q. The election was on the 24th of January. Was it about that time that this draft was drawn?

A. I think so.

Q. You do not remember the date?

A. No, sir.

Q. It is given here in the evidence of the president of the bank, in the testimony before the Kansas committee, that it was on the 23d?

A. There were several drafts drawn during that month. I think that was the only one not cashed in the bank.

Q. You do not know anything about the purpose for which this money was drawn?

A. No, sir. My understanding is that it was for the payment of our taxes in that county, but I have no evidence of that, however.

Q. What taxes? County or State?

A. County; the taxes of our road at the time amounted to very near that sum.

Q. What are county orders, or certificates, worth there?

A. About eighty-five cents.

Q. What were they worth at that time?

A. That I cannot say. I never bought one of them.

Q. Are county taxes payable in county certificates?

A. Yes, sir; outstanding scrip. They are payable on the 10th day of January.

Q. Are taxes payable then?

A. Yes, sir.

Q. If they are not paid on the 10th of January do they proceed to sell property at once?

A. No. I think there is 10 per cent. penalty until the 1st of May. I am not positive as to the time.

By the CHAIRMAN:

Q. Ten per cent. attaches after the 10th of January.

A. Yes, sir; I think so; until the 1st of May. Then the property is sold in the usual way.

Q. Was the road at that time in embarrassed circumstances?

A. No; not particularly.

Q. Was there any difficulty in the way of its paying its taxes before the 10th—before the penalty attached?

A. Yes, sir. The semi-annual interest is due the 1st of January, and we are generally pretty hard pressed about that time for ready means; not particularly embarrassed.

By Mr. LOGAN:

Q. I suppose you could have drawn the money out of the bank on the 10th as easily as on the 23d?

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A. Yes, sir.

By Mr. CALDWELL :

Q. I will ask you whether I ever paid you any money at all, or authorized you to pay any money for me for votes, directly or indirectly?

A. No, sir.

Q. You were not constituted my agent for that purpose?

A. No, sir.

By Mr. CLARKE :

Q. Major Anderson, I want to ask you in reference to these \$7,000 drawn on a check made by Len. T. Smith and indorsed by Governor Carney at the Kansas Valley Bank. Did you take any other check to the Kansas Valley Bank for the purpose of getting the sum of \$7,000 previous to that?

A. No, sir; I think not.

Q. Are you sure?

A. I would not be positive, because I have business with the bank.

Q. Might you not on the same day? Are you positive that you did not on the same day take a check drawn by Len. T. Smith, and indorsed by Carney, to the Kansas Valley Bank to get \$7,000 in currency?

A. No, sir; I do not think I did. I am not positive.

Q. You are not positive?

A. No, sir.

Q. If the check was cashed the books will show it?

A. I have no account of it as agent.

Q. I ask you whether you did not take a check for \$7,000 in there which was not cashed?

A. I do not remember.

Q. Might you have done so?

A. I might have done so.

Q. Major Anderson, I want to ask you if, since this investigation was commenced by the Kansas legislature, you have received, from either Mr. Caldwell or Len. T. Smith, or Mr. Lucian Scott, or Robert Crosier, any other money outside of this \$3,500, in reference to which you have been examined?

A. I have not.

Q. Did you state, some time during the past summer, to Mr. D. M. Adams, when you took a thousand-dollar bill into his bank, that it had been received by you for money owed to you by Mr. Caldwell or his friends?

A. I do not remember any such thing.

Q. Will you swear that you made no such statement?

A. No, sir; I will not swear to any such thing.

Q. Will you swear that you did not take a thousand-dollar bill in there?

A. No, sir; I might have done so.

Q. You do not remember, then, I understand you to say, whether you have been paid \$1,000 or \$1,500 additional to the \$3,500, since this investigation commenced?

A. I mean to say that I have not been paid anything.

Q. By either of those gentlemen I have named?

A. By either of those gentlemen.

Q. Do you mean to say you did not so state to Mr. Adams?

A. No, sir. I might have stated so to him.

Q. Major Anderson, I want to ask you if, since the election of Mr. Caldwell, you were present in the office of the Topeka State Record, in

company with Mr. Baker, proprietor of the Record, and Mr. Noble Prentiss, and had a conversation in reference to Mr. Caldwell's election.

A. I might have been there. I had a great many conversations with different gentlemen about the matter.

Q. At the time you were there, or might have been there, did you know anything about an article which was being prepared for publication in the Record in reference to Mr. Caldwell's election?

A. Yes, sir. I have seen a number of articles published.

Q. Did you not talk the subject over with Mr. Baker and Mr. Prentiss?

A. Mr. Baker showed me an article, and said all it required was the names, and it would be a very fine thing if he had the names, and wanted me to furnish them.

Q. Did you not communicate certain names to him, and say that there was one man whom you knew was paid, because you paid him—paid the money—and if you were on the other side of the river at your office, that you had a memorandum which would make the thing certain in your own mind?

A. No, sir. I think he asked me and I told him to give me the statute containing the names of the legislature and I would easily fill it in.

Q. You mean the whole of the members of the legislature?

A. Yes, sir.

Q. Did you not say to Colonel D. R. Anthony, during the progress of this investigation at Topeka, in Leavenworth, that you left the State because you were fearful that Mr. Caldwell would not pay you this \$3,500 that he owed you, and you wanted to get your pay before you testified?

A. I have no recollection of any such statement.

Q. Did you not state that in substance to me?

A. No, sir.

Q. Might you not have stated it?

A. I might, possibly; but I do not think I did.

Q. Do you recollect an interview with me at the Fifth Avenue Hotel, at your request, on the day of the reception of Duke Alexis at Topeka?

A. Yes, sir.

Q. Do you recollect of saying to me that if Mr. Caldwell would pay you what he owed you, you were willing to tell all you knew about this matter?

A. No, sir.

Q. Do you recollect saying that to anybody else?

A. No, sir.

Q. Are you sure that you have not said that to several persons?

A. No, sir; I am not sure.

Q. Did I understand you to swear that you, at no time, had any conversation with John D. Perry, or Judge Usher, or any of the officers of the Kansas Pacific Railroad, in reference to the demand of Mr. Caldwell for \$30,000, to pay his election expenses, as testified to by Judge Usher, before the Kansas legislative committee?

A. I do not think I have had any conversation with any of the officers of the road on that subject.

Q. You swear that neither Mr. Perry, nor Mr. Caldwell, nor Mr. Len. T. Smith, consulted with you upon the subject?

A. No, sir, they did not.

Q. Had you any conversation with Judge Usher about it?

A. I think not. I have talked with the judge a number of times about the election.

A A

V V

Q Q

A A

V V

Q Q

Q. I understood you to say, in answer to a question put by Judge Trumbull, that you probably expended, it might have been \$20,000, in the interest of the Kansas Pacific Railroad at that session of the legislature?

A. No, sir. I do not think I said that much.

Q. I think the record will show that you said it might have been fifteen or twenty thousand dollars?

A. It might have been a great deal more, but it was not any such sum.

Q. How much money was expended?

A. In the interest of the Kansas Pacific Railroad?

Q. Yes, or for any purpose about the legislature.

A. I do not know.

Q. Can you give the committee any idea?

A. No, sir; I do not think I can.

At 4 o'clock and 10 minutes the committee adjourned until Monday, January 13, at 10 o'clock.

WASHINGTON, D. C., *Monday, January 13, 1873.*

LEONARD T. SMITH sworn and examined.

By the CHAIRMAN:

Q. State where you live, Mr. Smith.

A. I live in Leavenworth, Kansas.

Q. What is your business?

A. I have been occupied with railroad business and farming for the last six or seven years more than anything else.

Q. Have you been connected in business with Mr. Caldwell?

A. Yes, sir; in transportation business across the plains, and more or less in railroad matters, but no direct partnership.

Q. Are you connected in business with Mr. Caldwell at present?

A. No, sir; only in railroad matters as owners of railroad stock.

Q. Were you present at his election in Topeka?

A. Yes, sir.

Q. For what purpose or object were you there?

A. To do what I could to elect Mr. Caldwell.

Q. State to the committee what you know, if anything, in regard to the use of money or other corrupt means on the part of Mr. Caldwell or his friends to procure votes for his election.

A. I know of none. I would like, as there has been a great deal said in this book here, [report of the investigation by the joint committee of the Kansas legislature,] and the thing has been mentioned quite frequently, to go back and explain from the commencement all the circumstances of Mr. Caldwell's election. Before the time I went to Topeka, and from the time he came out as a candidate up to that time—

Q. We will have that in a moment. You state you have no knowledge of any corrupt or improper means being used?

A. No, sir; I have no such knowledge.

Q. Did you draw a check for \$7,000, or a draft, in favor of Governor Carney during the period of that canvass?

A. Yes, sir; I did.

Q. What was that for?

A. Governor Carney had rented some rooms over there in view of be-

coming a candidate, and had furnished them, I think, himself—at least I understood him to say so—and had been at considerable expense, and I told Governor Carney I would make him whole. He came to me and wanted a check for \$7,000, and I gave it to him.

Q. What was the consideration of that check?

A. Nothing further, except that Mr. Carney was not to be a candidate, and I understood he would withdraw from the track. It was previously understood that he was not to be a candidate, but I thought he might be.

Q. Was this agreement to pay his expenses or make him whole in consideration of his withdrawing in favor of Mr. Caldwell?

A. No, sir. No; I think not. It was merely to re-imburse him. I think he demanded it.

Q. He demanded it as a consideration of his withdrawal?

A. He had withdrawn before this.

Q. Unconditionally?

A. Unconditionally. He would not be a candidate.

Q. Then if he had withdrawn before this time, before this thing was done, or anything was said about it, what induced you, or under what obligations were you, to pay him \$7,000 for his expenses any more than you were to pay \$7,000 to anybody else?

A. Because he had got out of the way; he was there and had been at considerable expense and had paid out money, and had got a number of men there, his friends, and I asked no questions; I was perfectly willing to do it. As I relate my story and the circumstances, you will see that I thought it was the best thing to do to make my point.

Q. But before you had any agreement with him of this kind at all, or anything had been said about it, I understand you to say he had unconditionally withdrawn?

A. Yes, sir; before I gave him that check.

Q. Then what advantage was to result to Mr. Caldwell, or under what obligation were you morally or otherwise to meet these expenses? What was the inducement for your action?

A. I told him I would do it.

Q. Did you say that to him as an inducement to have him withdraw, or after he had unconditionally withdrawn?

A. I think that that was the understanding, that I was to do it if he withdrew.

Q. You were to do it if he would withdraw?

A. Yes, sir.

Q. Before he withdrew?

A. Before he withdrew, but I gave him the check afterward.

Q. Did you say the understanding was before he withdrew that if he would withdraw you would do this?

A. Yes, sir.

Q. Was it a part of the understanding or not, because we want the exact facts?

A. That his friends should go for Mr. Caldwell, so far as he could control them.

Q. Was that a part of the understanding?

A. I think he said he would do everything he could toward Mr. Caldwell's election. That was the understanding and talk between us.

Q. If his expenses were paid?

A. Yes, sir.

Q. Then this money, this check in payment of his expenses, was, as you state, upon the understanding and consideration that he should

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withdraw from the candidacy, and do what he could to secure Mr. Caldwell's election?

A. Yes, sir.

Q. Do you know whether this check was paid?

A. Yes, sir. I suppose so. I had it to pay.

Q. Have you ever been re-imbursed by Mr. Caldwell?

A. No, sir.

Q. In any form?

A. Not in any way whatever.

Q. You still hold that against him as a debt?

A. No, sir. I never want him to pay it. I think I received full pay.

Q. Had you an understanding with Mr. Caldwell before you gave this check, that you would do it?

A. No, sir. I don't think Mr. Caldwell knew it.

Q. You had no promise from him, direct or indirect, that he would re-imburse you?

A. None whatever.

Q. Had there been any money placed in your hands, or within your reach, by anybody for election purposes, before this?

A. None whatever.

Q. Then this money was paid by you without any understanding with Mr. Caldwell, directly or indirectly, that you would be re-imbursed?

A. Yes, sir.

Q. And you say it has never been re-imbursed?

A. It never has been.

Q. State what interest you had in this election which would induce you to pay \$7,000 out of your own pocket.

A. Aside from my individual interest in that city, I have a large interest—

Q. Which city?

A. Leavenworth. We have been trying to get a Senator for a long time, and I had a personal interest also. There was a good deal of jealous rivalry, and a fight made upon Mr. Caldwell and myself in railroad matters, so much so that they had torn up our track on the levee. That was in December prior to the election; and I would have been willing to have spent that much, or even twice that much, if it would have done any good to beat this party.

Q. Which party?

A. The party that was fighting us in Leavenworth.

Q. What party was that?

A. Mr. Anthony, D. R.—there are two Anthonys there—and I suppose Governor Carney, and others in this fight, which was growing up as a matter of jealousy to Mr. Caldwell as Senator.

Q. Mr. Anthony and Mr. Carney were together?

A. Yes, sir.

Q. They constitute the leading members of this other party that you wanted to beat?

A. Yes, sir.

Q. How would your railroad matters be advanced by Mr. Caldwell's election?

A. I don't know that they would any. They could not be, because our railroads were finished and leased, but there was a condition on our getting the right of way through Leavenworth. We were to do certain work in that city. We had not completed that work on account of delay because of the weather. But I suppose it is no matter about my stating that. We had not complied with that condition. Mr.

Anthony was a member of the council of the city, and manipulated that so as to declare that our right of way through the town was forfeited, and ordered the track torn up; and they went down and tore it up. We had a hearing before Judge Dillon, and he granted a temporary injunction.

Q. Then it was to beat Mr. Anthony's candidate, Carney, that you were willing to make this sacrifice?

A. Yes, sir; and knowing Mr. Caldwell was the only man that could be elected from our town.

Q. You did not expect any personal advantage?

A. None whatever.

Q. When you paid Governor Carney this amount of money to withdraw, did you consider that as beating Mr. Anthony; as a triumph over him?

A. I did.

Q. Had you any money transactions with anybody there at Topeka during that canvass?

A. I don't remember any. I drew a check for \$150, and one for \$100 on one bank there; these are the only money transactions I had through a bank.

Q. What was that check for?

A. For expenses.

Q. Your own expenses?

A. Yes, sir.

Q. Do you know of any member of the legislature receiving money, or having a promise of money, to vote for Mr. Caldwell?

A. I do not. I know of plenty of opportunities. Men came to me and wanted to sell their votes. One man by the name of O'Connor was introduced to me and followed me for two or three days, as he stated the next night after the election, in the room of Mr. Fenelon and Mr. Van Doren, who were members.

Q. Let me ask another question here in regard to this matter of which you have spoken. How many votes did you expect to secure for Mr. Caldwell by the retirement of Governor Carney, and what votes?

A. I did not expect Governor Carney to control any of his votes; he could control a few. I told him I believed he could control some, and he probably would be the means of electing Mr. Caldwell; but I had always a certain mistrust that he was a candidate still, or wanted to be; but he was not, I will say that.

Q. Did you not expect that he would control some votes? Could there have been any inducement for you to give him this money unless it gave Mr. Caldwell strength?

A. I thought he could.

Q. How many votes?

A. I have no idea. I think he claims that he was the means of electing Mr. Caldwell.

Q. Did Governor Carney make any statement to you or Mr. Caldwell's friends of the number of votes he could control?

A. No, sir; I think not; I don't remember that he did.

Q. Do you know what counties these voters came from that he proposed to control, or could control?

A. I don't. As I stated before, I didn't believe that he could control any. I did not know that he could.

Q. Did you pay him the money with the understanding that he could not control any votes?

A. Yes, sir; I didn't count on his controlling any.

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Q. Then what was the inducement? It was not personal regard, as you have already shown in your statement of your relations with him at Leavenworth.

A. It was to keep him from fighting us, and to keep him friendly.

Q. If he could not control any votes, did you regard his friendship as material?

A. Yes, sir; I thought if Mr. Carney was a candidate he would split up our county. He might have got some votes if he had been a candidate. There would have been some votes, that otherwise would have gone for Caldwell, that would have been given to him, but if he was not a candidate they would naturally vote for Mr. Caldwell; that was my idea.

Q. Did you meet Mr. Spriggs there?

A. Yes, sir.

Q. Did you have any conversation with him?

A. Frequently, at different times.

Q. Did you know anything about the organization of a committee to manage the canvass on behalf of Mr. Caldwell?

A. There was none.

Q. None?

A. No, sir.

Q. Do you know about a committee of six?

A. No, sir; there was no committee of six or any other number whatever. These rooms I spoke of had been rented by Governor Carney; he occupied them with Mr. Spriggs. We used to go in there and meet—run in occasionally, first this man and then that, no particular number—all of Mr. Caldwell's friends would run in, back and forth.

Q. Did you hold communication with Mr. Spriggs and several other gentlemen in which you reported and they reported progress and prospects in regard to the number and the means necessary to secure votes?

A. No, sir. I don't know but we may have mentioned at different times certain men who it was understood would vote for Mr. Caldwell; but Mr. Spriggs and Mr. Carney's intimate friends, who came there assisting Mr. Carney, were distrusted by myself and others, who went there particularly in Mr. Caldwell's behalf. We always mistrusted them. We heard what they had to say, and if we had a particular man in view, or believed a particular man from any locality would vote for Mr. Caldwell from what he said, or other friends of the member, we were satisfied he would do so. We never said anything to these men about it. They never knew how we stood. They didn't know how many votes Mr. Caldwell had. On Tuesday night after the separate ballot they got in there, and Governor Carney came in and demanded a caucus. He said he never knew a senatorial campaign carried on without a caucus. I came in late, about ten o'clock, I think. They had got in about nine o'clock, and they wanted Mr. Caldwell's friends to come down. There were ten or fifteen there that night. Mr. Carney demanded a caucus, and wanted to know why he could not have it. I think Mr. McDowell said he did not see any use in a caucus; that from what different friends, who had been sent for and who had come to work for Mr. Caldwell said their representatives so and so would do, they would vote for Mr. Caldwell; he said, "A great many of them we don't know ourselves; but we are not afraid—we don't want a caucus. We believe that the men who represent that these men who will vote for Mr. Caldwell know, and we think that they will do it." We did not stay there but a short time.

Q. What do you know about \$1,000, or any other sum of money, being paid to Mr. Carson?

A. I know nothing about it, except what I have seen in this report by the Topeka investigating committee.

Q. Not paid to Mr. Carson, but to a man named Crocker?

A. I only know what I have seen in that book about it; that is the first I ever heard about it.

Q. You never advanced any such sum?

A. No, sir.

Q. Did you have any conversation with Mr. Crocker about it?

A. No, sir; I never spoke to him, I think.

Q. Did you have any conversation with Mr. Carney about it?

A. No, sir.

Q. What do you know about a sum of money being advanced for the Doniphan delegation?

Q. I would like, as you have spoken of Mr. Carson, to state that Mr. Carson I have known for a number of years. He came to me at Topeka several times. I knew he was there in behalf of Mr. Clarke. He and Mr. Shannon were rooming together. They were Mr. Clarke's friends. He came and said, "Clarke won't put up for me; I want some money, and if you can help me to some money I will get you some votes." I told him, "We have not much money, and I cannot give you any;" and so I passed it by. But he came again, and I was told he wanted to see me; but I would not talk to him. I told the man who asked me that I knew Carson and what he wanted to see me for. He hung around the room there for several days, and found that I was playing off on him, and went off. I would not trust him with five dollars.

Q. Do you know Mr. Spriggs?

A. Yes, sir.

Q. Do you know anything about money being advanced or proposed to be advanced by anybody to secure the Doniphan delegation?

A. I do not.

Q. Did you ever hear of it there?

A. No. I have heard it circulated around the streets, since the election, that the Doniphan delegation sold out. I do not know that I ever saw it anywhere except in that book, or in Mr. Anthony's paper.

Q. What do you know of an agreement or an arrangement being made to pay Mr. Clarke's expenses in case of his retracy?

A. I know nothing of it.

Q. Did you never hear it there?

A. No, sir. I have heard of it, but it was in such a way that I could not remember it. It was here in Washington, by Mr. Clarke.

Q. Did you hear about it at that time?

A. No, sir.

Q. Do you know anything about the circumstances of Mr. Clarke's retracy from the canvass?

A. The circumstances, I judge, were that his men, after the ballot, were all leaving him and were flocking down to make friends with Mr. Caldwell. I was at Topeka from the commencement until it was over, except one or two days of the time. I was not in the capitol at all; but soon after the vote was taken and decided, Mr. Tom Murphy, of the Atchison delegation, and John Martin, who edits the paper there, came down ahead of the delegation and met me and asked me to their room; and Mr. Martin says, and Mr. Murphy, "We want to talk with you about our delegation. You know, so far as Murphy and myself are concerned, we have always been for Caldwell. We had a certain thing to perform for Clarke, and we have done it. I believe now our delegation will go in for Mr. Caldwell, except it be Mr. Price. I am going to

have a caucus this afternoon, and I want you to say to Mr. Caldwell what we have said to him before, that as soon as we find out that there is no show for Mr. Clarke we will vote for him." He assured me that all the delegation, except Mr. Price—and they did not know but Price would, but they had not consulted him—would go for Mr. Caldwell; that they would have a caucus among themselves that afternoon, and Mr. Clarke would have one in the evening. They had their caucus and took me to their room—our rooms were right in the same hotel, a little way apart; it was about six o'clock, about supper-time—they took me in the room and told me they had seen their delegation, and, I need not say anything about it to anybody, but they would vote for Mr. Caldwell "to-morrow." They were going to meet Mr. Clarke at the caucus. They met there and sought to get Mr. Carney on the track; they tried to bring him out again after Mr. Clarke withdrew, but he refused to come out and said it was too late. I met him and Mr. Babcock in consultation that evening at a restaurant, that is Babcock and Carney. I mistrusted something was up, and I got some men to keep track of him, and go and have a talk with Governor Carney again. As soon as they did talk with Carney he said he had no idea of coming out, and should not come out.

By Mr. CARPENTER:

Q. Was that after he had received the \$7,000?

A. O, yes, sir; I think he received the \$7,000 some time before; I have no idea of the time; I have my bank-book here, too, which will show; I brought it along with me; I think it was only a week before the election.

Q. That he got the money?

A. Yes, sir; I think so; it must have been that long.

By the CHAIRMAN:

Q. Did you indicate to Mr. Caldwell the fact that you had paid Governor Carney \$7,000 for withdrawing?

A. I do not think I ever mentioned it to him. If he was to offer to pay me this six months from now I would have to consider it, and unless I was pretty hard up I would not take it. I consider that I was well paid.

By Mr. CARPENTER:

Q. You said that once before; how well paid?

A. By beating Carney and Clarke.

By the CHAIRMAN:

Q. You beat Carney by buying off?

A. No, sir; I think he was beaten any way. I don't think he could have been elected possibly in any way.

By Mr. CARPENTER:

Q. When that \$7,000 was paid to Carney, or before that time, was there any understanding, express or implied, between you and him, or any expectation between you and him that he was to use any part of the money with the members of the legislature?

A. None whatever. I never thought of such a thing, as far as I was concerned. I had no control of it after it had gone to him.

Q. So far as you were concerned, the sole inducement on your part was to prevent his being a candidate?

A. Yes, sir; and by doing that I thought I promoted the chances of Mr. Caldwell. I believe that Governor Carney did not intend at any

time after that to be a candidate, although his friends would tell my friends that he was going to be. I say this because Governor Carney might think I was putting him in a wrong position. I always believed that Governor Carney never intended to be a candidate after he withdrew and gave notice in the paper.

Q. Had he given that notice before you paid him the money?

A. Yes, sir.

Q. Before you agreed to it?

A. Not before I agreed to, but after that.

Q. You agreed to re-imburse him before he gave the notice in the paper?

A. Yes, sir. He never had come out as a candidate in earnest; I will say that frankly. He had said to outsiders he was not a candidate, but still I think he was a candidate, or intended to be a candidate.

Q. He was flirting?

A. Yes, sir.

By the CHAIRMAN:

Q. How did this seven thousand dollars come to be fixed upon? Did he claim that his expenses amounted to that sum?

A. Yes, sir. He asked me for that sum, and I of course gave it to him without saying a word.

Q. Whether the sum amounted to that or not?

A. Yes, sir.

Q. That was the sum fixed as the condition of his withdrawal, was it?

A. Yes, sir; so far as I am concerned.

By Mr. CARPENTER:

Q. Before he withdrew did you promise to pay him seven thousand dollars or his expenses?

A. I promised to pay his expenses.

Q. Was the sum named before he withdrew?

A. No, sir.

Q. When he came to close it up he demanded seven thousand dollars, and you paid it?

A. Yes, sir. He asked for it, and I gave him a check for it.

By the CHAIRMAN:

Q. Was that the sum he first demanded as a condition of his withdrawal? I want to know whether he fixed the sum you have said. Did he make any estimate of the expenses at that time?

A. Yes, sir; I think the condition of his withdrawal was, as far as I was concerned myself, that he fixed that sum.

By Mr. CARPENTER:

Q. The question is, was the sum understood and fixed at seven thousand dollars before he withdrew?

A. No, sir.

Q. The understanding then, was, before he withdrew, that you were to repay his expenses whatever they were?

A. Yes, sir.

Q. And after he withdrew he stated that amount?

A. Yes, sir. He came to me and wanted a check, I supposed to send to Leavenworth, and I gave him a check on the Leavenworth bank, where I had money. I suppose he sent over there and had it cashed.

Q. Do you know what he did with the check in Topeka?

A. I don't know.

By Mr. TRUMBULL :

Q. I would like to know the relations of Mr. Smith and Mr. Caldwell. You have been dealing together for some years ?

A. Yes, sir ; ever since 1865, and in 1864 somewhat in special contracts.

Q. Have you ever had a settlement with Mr. Caldwell ?

A. We have unsettled business yet.

Q. You have never struck a balance since you were together ?

A. Yes, sir. We have balanced up except contingent affairs. We have nothing now except contingent affairs. We have some claims here for a large amount.

Q. Have you ever passed receipts ?

A. We have always passed receipts and balanced books.

Q. Have you ever squared up so that the one did not owe the other ?

A. No, sir ; I think there have been settlements when there were balances due me, provided certain things were settled ; but all balanced besides that. There have been some collections made ; I think there have been some collections made, and I may have owed him some.

By Mr. CARPENTER :

Q. Has there been any balance since he was elected to the Senate ?

A. No, sir ; we have had no transactions since to settle.

By Mr. TRUMBULL :

Q. Were you at Topeka as the agent of Mr. Caldwell ?

A. No, sir.

Q. He did not know that you were there at all ?

A. Yes, sir ; he knew I was there.

Q. Did he know what your business there was ? Did you never have any conversation with him about going there for the purpose of promoting his election ?

A. Yes, sir ; I think I had.

Q. Then he knew you were there in his interest ?

A. Yes, sir.

Q. Did you have consultations daily with him in regard to men ?

A. I presume I did.

Q. Whenever you discovered he had a friend in the legislature you apprised him of it ?

A. Yes, sir.

Q. And had frequent conversations with him ?

A. Yes, sir.

Q. Were there certain gentlemen with whom you were in the habit of meeting to consult about his prospects, or did you run on your own hook entirely ?

A. Generally, we were running on our own hook entirely, but we saw each other there.

Q. Did you ever meet Mr. Spriggs, and Governor Osborn, and Mr. Carney, and Frank Drenning and talk about the prospects ?

A. Yes, sir ; the night I speak of, Tuesday night, there were Judge Crozier, and Mr. McDowell, and Mr. Osborn, and Mr. Spriggs, I think. I was probably the last one that came into the room, except Governor Carney. I was there only a few minutes after he did come ; only a few minutes any way.

Q. Did you ever meet these gentlemen except at that one time ?

A. I might have met one, or two, or three, or all of them.

Q. Where was that ?

A. In Governor Carney's room.

Q. Did you meet them in any other room?

A. No, sir; only frequently at the hotel.

Q. Did you, when in conversation with them, generally exclude others from the room?

A. None of Mr. Caldwell's friends were excluded.

Q. Were the doors open for everybody?

A. Yes, sir. I do not remember to have been in a room with a locked door.

Q. But was it open for any one, so that any one was at liberty to come in and go out?

A. No; I think if a man had come in there that we did not know as to whether he was our friend or not, I do not think we should have done any business until he went out.

Q. Did you talk over with these gentlemen at any time, or say anything about the use of money with members of the legislature, and what they could be got for?

A. I never had any such talk.

Q. You never had any such conversation as to the amount of money necessary to obtain a vote?

A. No, sir; I don't remember that I ever had a conversation of that kind. I may have had it; I will not say I did not, except as regards one case. There is a man named Doctor O'Connor, who lives down in Southern Kansas, who got himself introduced to me, and came the next day to see me and followed me down the sidewalk, and finally proposed; he said to me he knew where there were four or five votes he could control.

Q. With money?

A. Yes, sir; by money. I told him I did not know of anybody buying, unless it was Mr. Clarke, and he had better go and see, and I passed along. He was in Mr. Fenelon's and Van Doren's room; they were democrats, and they occupied rooms in the same building with Mr. Carney; and I was in there frequently myself. We used to meet there quite frequently after that. After the election was over with, that evening we had a little party in Mr. Fenelon's room, and O'Connor came in, and we took some wine, and he sat down, and said to Mr. Fenelon, "I tried to sell Smith some votes, but he would not buy."

By the CHAIRMAN:

Q. Who was that man?

A. Doctor O'Connor. I did not ask him whose votes he wanted to sell. He said, "I was sent there by Clarke, and I will tell you frankly now, I came to see if I could not get you to buy votes." This he stated to Mr. Fenelon and Mr. Van Doren.

By Mr. TRUMBULL:

Q. That was after the election?

A. Yes, sir; the next night.

Q. I wish to ask you directly whether, in the hearing of Mr. Spriggs and Governor Carney, and some others, you did not speak yourself of payment by yourself, or anybody, or promises of the payment of any money to any member of the legislature, or their friends, for their votes?

A. No, sir; I never did. I never had any conversation of the kind in the hearing of these gentlemen.

Q. Nor in regard to the use of money?

A. I never should have had any such conversation in the presence of.

Mr. Spriggs, if I had had any such desire, and I say I never had any such conversation.

Q. State to the committee the amount of money used by you, or that has been paid since, directly or indirectly, in connection with or having any relation to that election.

A. Paid by me?

Q. By you or through you, or that you have any knowledge of?

A. Well, that is the only money that I could name. Any amount I may have spent—three or four or five or six hundred, or one thousand dollars—over there myself, I have no account of, and no idea. I could not have spent that much; but I have looked it up, and the only checks I drew were two. One was for one hundred dollars, and one for one hundred and fifty dollars, making two hundred and fifty dollars. The balance I used was money I had in my pocket that I got at home, and, perhaps, not to exceed one or two hundred dollars.

Q. Have you no information of the use of money, outside of the seven thousand you speak of, by Mr. Caldwell or his friends at that time?

A. To procure votes?

Q. In connection with the election? I do not say by offering it to a member, but in connection with his election in any way at that time?

A. Well, I don't know what you mean by "connection." If you mean in connection with and during his election, I should say no.

Q. I want to know whether any money was used by Mr. Caldwell or any of his friends, to your knowledge or information, relating to that election. These things, you know, are covered up in various ways, and we want to get at the facts; we want to know from you if you know of any money used by him or his friends during that canvass at Topeka for the Senatorship, or any other means; I do not care whether money or anything else.

A. No; I don't know of any money or any means being used aside from this I have spoken of.

Q. The seven thousand dollars?

A. Yes, sir.

Q. You never have stated to anybody, at any place, that any money was used?

A. No, sir.

Q. Did Mr. Caldwell know of your action there?

A. Yes, sir; my general action; I think he did.

Q. Did you inform him that Mr. Carney would withdraw or had withdrawn?

A. Yes, sir.

Q. He knew that before he did withdraw?

A. I think he did; that he would withdraw.

Q. Did you advise him that he would support him (Caldwell)?

A. Yes, sir; I think so.

Q. You apprised Mr. Caldwell that Carney was to withdraw and to support him?

A. Yes, sir.

Q. Are you sure that you told Mr. Caldwell how he came to withdraw?

A. Well, I think there was an arrangement why Mr. Caldwell understood he was to withdraw.

Q. You think Mr. Caldwell understood there was an arrangement made by which he was to withdraw?

A. Yes, sir.

Q. And that that arrangement was that he was to be paid seven thousand dollars?

A. Well, there was an arrangement outside of that.

Q. What was that?

By Mr. CARPENTER :

Q. Let us get through with this first. Was that arrangement known to Mr. Caldwell?

A. No, sir; it was not.

By Mr. TRUMBULL :

Q. Was it known to Mr. Caldwell that Mr. Carney was to withdraw and support him?

A. Yes, sir.

Q. When that was announced to him, did you tell him how that was brought about, or in any way indicate it?

A. That was announced before I gave this check; but this check had nothing to do with his withdrawing, except as regarded the expenses—to make him good.

Q. You have already stated that an arrangement was made by which he withdrew and supported Mr. Caldwell in consideration of which you were going to pay his expenses?

A. Yes, sir.

Q. Now, I want to know if Mr. Caldwell knew it?

A. Mr. Caldwell knew he was going to withdraw.

Q. And to support him?

A. Yes, sir.

Q. And that his expenses were to be paid?

A. Yes, sir. There was an arrangement made——

Q. But I want to get at that point. Did Mr. Caldwell know that he was to withdraw and support him and have his expenses paid? I understand you to say now that he did.

A. Yes, sir.

Q. And you say there were some other considerations that induced him to withdraw besides this money. What were they?

A. Well, there was an arrangement, I suppose, that Mr. Caldwell agreed to, which this seven thousand dollars cuts no figure in. It was with Governor Carney. Mr. Caldwell was to pay. He was to pay his expenses with a certain amount some time after the election, or some time. It was paid some months afterward—a long time. It was to be paid if he was not a candidate and would not be.

By Mr. CARPENTER :

Q. Was that in addition?

A. Yes, sir. This seven thousand dollars they knew nothing about.

By Mr. TRUMBULL :

Q. It was in addition to that seven thousand dollars; Mr. Caldwell was to pay it at some future time?

A. Yes, sir. Was to pay Mr. Carney something.

Q. Now, how much was he to pay?

A. Fifteen thousand dollars.

Q. Do you know when that arrangement was made?

A. That was made before we went to Topeka, but not consummated until he went up to Topeka. I made the arrangement with him and informed Mr. Caldwell, and Mr. Caldwell consented to it after a long time, and his friends—his Leavenworth friends.

By Mr. CARPENTER :

Q. The fifteen thousand dollar arrangement?

A. Yes, sir; that he at some time would make him whole. He said he had been in the canvass a long time, and he claimed that he had spent a great deal of money.

By Mr. LOGAN:

Q. Who was that?

A. That was Governor Carney.

By the CHAIRMAN:

Q. Was that \$15,000 arrangement made before or after this \$7,000 arrangement?

A. Before.

By Mr. CARPENTER:

Q. Before you went to Topeka?

A. Yes, sir.

By the CHAIRMAN:

Q. Mr. Smith, if Mr. Caldwell had already made that arrangement with Governor Carney, by which he was already retired for fifteen thousand dollars to be paid by Mr. Caldwell, why was the second arrangement made to pay him seven thousand dollars more?

A. That was to make him whole. He had rented some rooms, and had sent for men and had agreed to pay their expenses.

Q. Your arrangement was to pay him seven thousand dollars for his expenses?

A. Yes, sir; that was independent; he demanded that, and I paid it without a word.

By Mr. CARPENTER:

Q. Did you understand the arrangement as standing between Mr. Caldwell and Carney to pay Carney fifteen thousand dollars?

A. No, sir; I think he has been paid.

Q. That Caldwell has paid him the fifteen thousand dollars?

A. I think so.

Q. Did you hear that from Caldwell?

A. I have understood it has been paid.

By Mr. ANTHONY:

Q. Governor Carney had agreed to take fifteen thousand dollars, you said?

A. Governor Carney sent for me; he wrote a note in reply to one I sent him after I returned from New York; this was in December; he wanted to talk with me. Mr. Caldwell had then come out as a candidate, by a petition, or a petition being presented to him by the citizens of Leavenworth, which he had accepted; and then Carney came home from New York. I had been home a week or ten days ahead of him. When he came home he said to a party that he would like to see me. I wrote to him where I would meet him. He wrote me he could not come then, but he would meet me after dinner. He wanted to talk it over. He felt much aggrieved that Mr. Caldwell was out as a candidate; he said he had spent a great deal of money in past years being a candidate.

By Mr. CARPENTER:

Q. Who said this?

A. Governor Carney. I said, "Governor Carney, you have been a candidate ever since Lane was last elected, and you have been defeated; and our people here are determined to have a Senator this time if they can get one"——

By Mr. ANTHONY :

Q. Your people in Leavenworth ?

A. Yes, sir. "And they believe they can elect Mr. Caldwell." He complained of this course being adopted and the petition calling out Caldwell. I went on to give him the status of this petition. I said to him, "Governor Carney, you know we feel here that we could have had a Senator any time if our delegation would unite. They never would unite on you; half of them would never go for you under any circumstances, and the whole State admit that we are entitled to a Senator if we are only united." Carney then complained about how much it had cost him. I said, "That is all very true, Mr. Carney; you spent a great deal of money." Prior, though, to his going to New York—to go back to that to show you why I had talked with him—I was down to his store and he took me to one side and asked me if he were to be a candidate would I support him—do what I could for him.

By Mr. CARPENTER :

Q. That was Carney ?

A. Yes, sir. This was in the last days of October. I said to him that I did not know that I could help him in any way much, as I didn't intend to have anything to do with the election; but would gladly support him if Caldwell was not a candidate, and I said, "If he will take my advice he will not be a candidate." He said, "Why?" I said, "If Caldwell is elected to the Senate he will not live two years; he is sickly; he has money and a nice home, and has always been confined to business, and I should advise him to stay there." I went off, and was gone several days, and Governor Carney had been to New York, and I did not see him until this time that I speak of. Governor Carney came up and made this statement. I said to Governor Carney, "As far as that is concerned, I would prefer to see you paid." I asked him what he wanted. He named that amount.

Q. What amount ?

A. Fifteen thousand dollars.

By Mr. ANTHONY :

Q. As what he had spent ?

A. Yes, sir; before he went to Topeka I said: "That is a large amount of money, but we are all largely interested in this city, Mr. Caldwell as much as anybody else, and I have large interests here, and we cannot afford to lose the Senator." He said if they would work for him as they had for Caldwell they could elect him. I said: "Governor, we have done that once or twice for you;" and there the conversation ended. We were to see him again. We met at the First National Bank again one evening with Mr. Scott, president of the bank, and Mr. Caldwell. He said he must have that, and I was in favor of giving it to him, and helping pay it, or doing anything. I did not say that to Governor Carney, but I was really in favor of it, as far as I was concerned. Mr. Caldwell would not consent to it—to paying it—and after that I think we advised Mr. Caldwell that he had better pay it, and he came up to Topeka. I didn't see him. I went to Topeka with Mr. Caldwell Tuesday. Mr. Caldwell went up Tuesday, the day the legislature organized—I think it was the 10th—and I got a note from Mr. Scott that Carney had been in the bank to see him, and was anxious that he should write me a note. Scott wrote me a note that Carney would be there and see me, and he thought Carney and I were a little huffy, and I would not call on him unless he invited me. I waited until 11 or 12 o'clock.

Several persons were there. He asked me to wait a little while, as he wanted to see me. I sat down, and then he said he was going on, and was going to be a candidate himself.

By Mr. CARPENTER :

Q. He insisted on this proposition of \$15,000 ?

A. Yes, sir. I told him then that I would have a talk with Mr. Caldwell; that we had no right to do anything of the kind, but I would see Mr. Caldwell, and see what he said. I went to see Mr. Caldwell and talked it over; that he was going to be beaten; that we would never get anything in the world as long as Carney was there to fight us, and I said I thought the best way was to get rid of him. We claimed that we had never had our rights at Leavenworth, by not having proper representation in the State; other towns were getting it, and we were getting nothing. That was the feeling of all our citizens. The merchants had signed this petition for Mr. Caldwell to come out as a candidate. They did not help Mr. Caldwell, except as they believed him to be the most available man. It was not friendship for him more than any others.

By Mr. ANTHONY :

Q. What were you to gain in Leavenworth by having one Senator more than another? But go on with your narrative.

A. To go back, Mr. Caldwell consented to do what Carney demanded.

By the CHAIRMAN :

Q. Where was Mr. Caldwell when he agreed to that ?

A. At Topeka.

Q. He had gone there ?

A. Yes, sir.

Q. There he agreed to pay the \$15,000 ?

A. Yes, sir; he was about starting home.

By Mr. CARPENTER :

Q. At that interview, at which Mr. Caldwell was present, you told him that if Carney should be a candidate he (Caldwell) would be defeated ?

A. Yes, sir; I told him he would make trouble. We would lose the Senator.

Q. The object was to make a sure thing of getting a Senator ?

A. Yes, sir. I told our whole people there that we would be destroyed if we had two candidates. Now, if it is in order to go out of the way to tell why I went up to Topeka with Mr. Caldwell, I will state it. When I came from New York, at the time I had the talk with Mr. Carney, I was met by our citizens next day, and they told me they had waited on Mr. Caldwell several times to be a candidate, and he had not given them an answer, and they wanted me to see about it. I told them I would step in and see him. They invited me to meet that evening with them. I stepped in and saw Mr. Caldwell, and told him what they had been saying to me on the street, and that they wanted him to be a candidate. He asked me what I thought about it. I said as I told you here I have said: "If you take my advice, Mr. Caldwell, you will not be a candidate." He asked me why. I said, "Because I don't think you will live two years." This I said as I had said it to Carney. Caldwell said he did not want to hear me talk in that way. He was sickly then. He has improved since he has come here. He went to the mountains, but I didn't think then he would improve. He asked me,

"Do you think I could be elected?" I said, "I have no doubt of it." We discussed the matter further, but there was nothing of prominence after that. I went down to the meeting and stated my interview with Mr. Caldwell at the meeting. At that meeting of a few citizens they proposed to get up this petition and present it to Mr. Caldwell, asking him to be a candidate. They said it would have more than one effect; it was saying a good thing for Mr. Caldwell. We believed we could elect him, and we thought Mr. Carney could not, very well, in the face and eyes of this petition, come out as a candidate. The next day I left to go to Jackson County to my farm, and was gone four or five days. The first I saw of the petition was in Atchison, as I came back, published in the papers. Mr. Caldwell had accepted the petition, when presented to him, and agreed to make the campaign.

By the CHAIRMAN:

Q. Let me call your attention back one moment. What was the distinct consideration of Mr. Caldwell's agreement to pay that \$15,000? Was it that Mr. Carney should withdraw from the canvass?

A. Yes, sir.

Q. And would not be a candidate. Was that all the consideration at the time?

A. Yes, sir; that was all.

Q. Afterwards, when you agreed to pay him the \$7,000 for expenses, as you say, had Governor Carney backed out of the first arrangement and demanded that as additional compensation?

A. He claimed that his expenses were to be paid; that he had rented this room; and he said "What difference is it whether I pay for them, or Mr. Caldwell?" He said "We have got to have them." I could not afford to differ with him. There was getting to be a good deal of feeling. Mr. Anthony had gone over to Leavenworth, and had got up a caucus there.

Q. Did he claim that his expenses were to be paid in addition to the \$15,000, or was it a back-out—a new demand?

A. He claimed that this \$15,000 was simply for keeping out of the canvass.

By Mr. CARPENTER:

Q. And that he was to have his expenses besides?

A. No; but he said, what was the difference whether he paid for them or Caldwell? that his friends would be Caldwell's friends, and they would do what they could for him.

By Mr. TRUMBULL:

Q. Was not the \$7,000 for expenses incurred after the \$15,000 arrangement?

A. Yes, sir; that had nothing to do with what was prior.

By Mr. CARPENTER:

Q. After he had made the arrangement?

A. Yes, sir; I suppose if he had not gone to Topeka he would not have made the demand for \$7,000.

By the CHAIRMAN:

Q. Did you have a conversation with Chester Thomas? Do you know him?

A. Yes, sir; I know him.

Q. Was he at Topeka during this election?

A. Yes, sir; he lives there.

Q. Did you have a conversation with him?

A. I presume I talked with him very little about it. He was in the interests of Mr. Clarke, and I was invited there once or twice, but I did not go there, I do not think, until after the election.

Q. Did you tell him in a conversation that you could get all the votes you wanted for Mr. Caldwell for five hundred dollars per vote?

A. No, sir; I never made any such remark to any one. If he had come to me and said, "What are you paying for votes?" I would not have talked with him. I read that testimony of his. I read it a week ago last Sunday. It was the first time I ever saw it. I got a copy of the book, and then I was perfectly astonished to see any such statement by him. His statement that I said any such thing carries a contradiction on its face.

Q. Did not Chester Thomas come to you and say he could get a vote for \$800, and did you not answer him you could get as many votes as you wanted for \$500?

A. I never made any such remark.

Q. At the time this arrangement was made for the \$7,000, was there any paper signed by Mr. Carney touching that matter?

A. No, sir.

Q. Was there no paper signed or drawn up as to his withdrawal?

A. I took a paper at the time I made this agreement for Mr. Caldwell.

By Mr. CARPENTER:

Q. For the \$15,000?

A. Yes, sir.

Q. Did he sign a paper then?

A. Yes, sir.

Q. Where is that paper?

A. I gave the paper up to him.

Q. To whom?

A. To Mr. Carney.

By Mr. HILL:

Q. After the election?

A. I think sometime in June or July. If I was home I could tell.

By Mr. ANTHONY:

Q. You say it was after the election?

A. Yes, sir; I have a copy of that paper. There had begun to be a little feeling about it, and I had it copied.

By the CHAIRMAN:

Q. Have you that paper here?

A. No, sir.

Q. What were the contents of that paper?

A. That he would not under any circumstances be a candidate for the United States Senate that year, under forfeit of his honor.

Q. Anything else?

A. I think that covered everything in it.

Q. Did it contain a pledge to use his influence to get his friends to go for Mr. Caldwell?

A. I do not know. No, I think not, for in the agreement he offered to go to New York or to Topeka. He made this remark to me, but it was not put in the written agreement; I think it was a verbal understanding.

By Mr. CARPENTER :

Q. To go to New York for what ?

A. If I thought he would not be of use.

Q. Or would be a candidate ?

A. Yes, sir ; he said he would go to New York and stay out of the way.

By Mr. HILL :

Q. Did the paper set forth the consideration, \$15,000—that he was to do it for this amount ?

A. No ; I think he said “I will forfeit \$15,000 and my honor.” I think that covers the whole thing.

By the CHAIRMAN :

Q. Did Mr. Caldwell give any paper in return ?

A. No, sir.

Q. What security did Mr. Carney have that he was to get the \$15,000 ?

A. I could not say if there was any paper given. It was my own, but I will not be certain that I gave a paper.

Q. Was there any sort of written assurance given ? When Governor Carney gave his written assurance that he would withdraw, was there any assurance in return that he would get \$15,000 ?

A. He may have had only my word, but I may have given him a paper. I have had transactions with Governor Carney for a great deal larger amounts than that.

Q. But this was a peculiar transaction ?

A. Yes, sir ; I do not know but that it was my paper.

Q. Did they not have your name for \$15,000 ?

A. I think probably they did.

Q. When did Governor Carney get his pay ? When did Mr. Caldwell pay him ?

A. I could not say ; I should judge, though, from the circumstances, that he probably was paid sometime in the summer \$10,000, and a long time after that the remaining \$5,000.

Q. When this was paid was your obligation for \$15,000 taken up ?

A. No, sir ; I never have seen the paper.

Q. At the time this obligation of Carney to withdraw from the canvass was surrendered, which you think was in the June following, and of which you kept a copy, was not that paper given back to you, and did you not keep a copy ?

A. No, sir ; I thought the paper was destroyed in the bank, if there was such a paper ; I think they said so. I think \$10,000 was to be paid at some time, and \$5,000 some time afterward ; that is my recollection. There may be a paper for the \$5,000, but there was nothing for the \$10,000. That would be my recollection about it. The \$5,000 paper was taken up, and the paper was destroyed. I think my paper was given for the \$5,000.

Q. You have spoken of this paper going into the bank. Was that an acceptance or a note ?

A. No, sir.

Q. How did the bank come to have anything to do with it ?

A. Governor Carney did business in the bank of Scott and Company and left it there.

By Mr. CARPENTER :

Q. For collection ?

A. Yes, sir.

By the CHAIRMAN :

Q. Then it was an acceptance ?

A. No, sir.

Q. Then how could it have been left to be collected ?

A. It was not for collection exactly.

Q. In what form was that paper that was to be collected, and that was left at the bank ?

A. I do not think there was any paper given for the \$10,000. I would not say that there was not. The \$5,000 was in the shape of a note, payable to Thomas Carney. I think that was left with Scott & Co., where I did business, and where Governor Carney does business. He resided then at Saint Louis, or was there most of the time.

Q. Did you pay that ?

A. No, sir ; Mr. Caldwell, I suppose, did.

Q. Tell why an obligation would be required for the \$5,000 and none for the larger amount, the \$10,000. Why was that left in parol ?

A. I suppose the \$10,000 was to be paid shortly, if there was no paper for it. There may have been one for the \$10,000 ; I would not be positive ; I know it was in two payments.

Q. Now state to the committee—and we leave you to search your memory and conscience for an answer—what you know of any other money transactions connected with this election, either at the time of the election or afterward.

A. I know of no other.

Q. Have you no information in regard to any other ?

A. No, sir ; none whatever.

By Mr. ANTHONY :

Q. I understand from your testimony that Governor Carney agreed to withdraw for \$15,000, and went to Topeka, but did not withdraw ?

A. Yes ; he did withdraw.

Q. But not until you had paid him \$7,000 more ?

A. O, yes ; long before that he published a card. This was the demand he made before he went to Topeka, and he still held out, and we concluded to let him alone ; and as I was hesitating, Lucian Scott wrote me a letter, as he told me afterwards at the request of Governor Carney, because he thought we were a little stubborn, for me to see him. He came up on purpose, I suppose, to make this arrangement with me while I was up there, but still, apparently, did not ; and when he got there (it was on Wednesday or Thursday) I went in in the evening to see him, and he stood out on that same thing ; and I went to Mr. Caldwell to see what he would do, and he agreed to it ; and I went to Carney the next day and told him Mr. Caldwell would agree to it.

By the CHAIRMAN :

Q. Do you know W. G. Raymond ?

A. No, sir.

Q. You know no such man—no man by that name ?

A. No, sir ; I never saw him to my knowledge.

Q. You had no conversation with a Mr. Raymond, in the Tefft House, in which you said, "Don't leave yet ; we are dead broke just now, but as quick as Tom Anderson returns from the bank or depot we will have plenty of greenbacks to carry the matter through ?"

A. No, sir ; I never made any such remark to Mr. Raymond or anybody else.

Mr. CALDWELL. I will ask of the committee permission to have Judge Crozier, my friend and counsel, allowed to question the witness.

The CHAIRMAN. Permission is granted; no objection is made.

By Mr. CROZIER:

Q. Do you recollect the day on which you and Mr. Caldwell first went to Topeka?

A. Yes, sir; I think it was on Tuesday, the 10th of January, the day the legislature met. We went up in the morning and got there after they had organized.

Q. Do you know how long Mr. Caldwell remained there before returning home?

A. Mr. Caldwell returned home, I think, on Thursday or Friday night.

Q. Of that week?

A. Yes, sir.

Q. When did he return again to Topeka?

A. He returned on Wednesday night.

Q. The following Wednesday?

A. Yes, sir.

Q. What time of day?

A. I am not certain whether Wednesday or Thursday. I telegraphed him on Wednesday, I know.

Q. Mr. Spriggs testified here when you were not present that on the Tuesday preceding the Tuesday upon which the first ballot was held, which would be the 17th of the month, he had a conversation with Mr. Caldwell in regard to the committee that he spoke of, and in regard to the purchasable members of the legislature. Could he have had such a conversation on that day with Mr. Caldwell in Topeka?

A. I have a dispatch from Mr. Caldwell's doctor, saying it was impossible for him to come to Topeka then.

Q. Was Mr. Caldwell there?

A. He was not there at that time, on the Tuesday following the first Tuesday, I think.

Q. Do you know why Mr. Caldwell went home?

A. He was sick.

Q. Were you ever present at any meeting of Mr. Caldwell's friends at Topeka at any time, appointed in behalf of Mr. Caldwell?

A. Never.

Q. What did Mr. Caldwell know, so far as you are aware from having had conversation with him, about the constitution of any committee?

A. I do not think he knew, so far as I know, that there were such rooms there. I do not know as he ever saw them or knew that anybody ever met there.

Q. Where were Mr. Caldwell's rooms?

A. At the Tefft House.

Q. How many rooms had he?

A. I think he had only a parlor and a bedroom.

Q. How far were those rooms that you spoke of as having been engaged by Mr. Carney, from Mr. Caldwell's headquarters?

A. I should think about as far as from here across the street.

Q. Mr. Clarke testified here the other day that he was not at any time in favor of the election of Mr. Caldwell; that he did not recommend to his friends that they should vote for him; that he protested against his friends voting for him all the time.

Mr. CLARKE. I beg to have the testimony stated correctly.

The CHAIRMAN. You can ask what Mr. Clarke did, and if you wish to

contradict Mr. Clarke you can ask specially in reference to what he said, repeating his testimony exactly as given.

By Mr. CROZIER:

Q. What do you know about Mr. Clarke having, at Topeka, withdrawn in favor of Mr. Caldwell, and recommending to his friends to vote for him?

A. I had some talk with the Atchison delegation as regards that after they had returned from his caucus.

Q. Had you any conversation with Mr. Clarke at all on the subject?

A. No, sir.

Q. What did Mr. Clarke do in regard to it, to your knowledge?

A. The Atchison delegation said that Mr. Clarke withdrew, and in a speech (and a very handsome speech) recommended them to vote for Mr. Caldwell, saying that he was the only man who had treated him fairly. He went on and told me the speech, advising them all to do it.

Q. You did not have any conversation with Mr. Clarke himself about it?

A. No, sir.

Q. How many friends of Mr. Clarke did vote for Mr. Caldwell?

A. I should say that nearly all of them; no, I would not say that. I cannot remember now. If I had the list I could tell very nearly how many were Mr. Clarke's friends and how many were not. I should think a large majority voted for Mr. Caldwell, speaking from memory.

Q. In reference to that \$15,000 transaction I understand you to say, substantially (and tell me if I am right) that the arrangement to pay \$15,000 to Governor Carney was to re-imburse him for expenses he had incurred as a candidate down to that time?

A. Yes, sir; which he said he had expended, and he said that would not nearly repay him.

Q. That was expended in previous canvasses as well as this?

A. Yes, sir.

Q. That, I understand, was for expenses incurred by Governor Carney in the immediately preceding canvass and in others before that?

A. Yes, sir; so I understood it.

Q. The \$7,000 were for expenses incurred subsequent to that?

A. Yes, sir.

Q. And the agreement was made that he should be re-imbursed for the \$15,000 and that he would assist Mr. Caldwell, or go to New York?

A. Yes, sir; I think that Governor Carney claimed that he had expended a great deal more than that.

By Mr. CARPENTER:

Q. As I understand, when this arrangement was made for the \$15,000, he promised upon his honor that he would not, in any event, be a candidate?

A. Yes, sir.

Q. And that he would do all he could to elect Mr. Caldwell?

A. I do not think that was in the agreement.

Q. Was that the understanding?

A. I think the understanding was that he would go to New York, or to Topeka, to assist in Mr. Caldwell's election.

Q. Was he requested to go to Topeka?

A. Yes, sir; I thought he had better go to Topeka.

Q. Then this \$7,000 payment was for what he claimed to have expended up there in the interest of Mr. Caldwell?

A. Yes, sir; he had rooms rented there before, and paid his own bills, and had a great many men up there.

By the CHAIRMAN:

Q. Did you, in a previous part of your testimony, state that Mr. Carney agreed to retire from the canvass expressly on the condition that you would pay him \$7,000?

A. No, sir; I was careful not to say that for the reason—I may have said that was all that I paid Mr. Carney. I did not want to bring out this \$15,000 matter if not compelled to.

Q. Did you not state, in answer to my question, perhaps to several questions, that Mr. Carney agreed to retire from the canvass upon the condition that you would pay his expenses, and that he estimated his expenses at \$7,000, and that he published his withdrawal after that agreement and before the payment of the \$7,000; did you not testify to that here?

A. No; I think my testimony should be that he agreed to withdraw from the canvass. I did not say what his agreement was, but that he was to withdraw from the canvass, and \$7,000 was all I paid to him.

By Mr. CARPENTER:

Q. That you may explain, I will say that I put substantially this question, whether \$7,000 was named as the amount of expenses which should be paid, whether that was named prior to his actual withdrawal, and I understood you to say it was.

A. No; it was after his withdrawal that the \$7,000 was named.

Q. Was the sum of \$7,000 named by Carney to you before or after his withdrawal from the canvass?

A. After he withdrew.

Q. The sum of \$7,000 had never been agreed upon prior to that?

A. No, sir. (The testimony of the witness given early in the examination on this point was here read in the hearing of the committee by the reporter.)

By Mr. CROZIER:

Q. Do you mean to say that the sum of \$15,000 in consideration of the withdrawal of Mr. Carney was agreed upon at Leavenworth?

A. That was talked up there, and was what he demanded, but we did not agree to it at all.

Q. Where did you agree to do it?

A. At Topeka.

Q. Then did he publish a card withdrawing from the canvass?

A. The very day afterward.

Q. What was he to do at that point? Was he to remain at Topeka, or to go to New York?

A. He told me he would do either, as I desired.

By Mr. CARPENTER:

Q. Did you desire him to remain?

A. I thought that was best.

Q. Did you tell him so?

A. Yes, sir; I told him I wanted him to.

By Mr. CROZIER:

Q. If he did remain to aid the election of Mr. Caldwell, were you to pay him anything for his expenses at Topeka?

A. We expected to make him whole.

Q. Was this \$7,000 to make him whole?

A. Yes, sir; I suppose so; that was the intention.

By Mr. CLARKE:

Q. Have you any information in reference to the payment to Governor Carney of \$5,000 additional?

A. I never had, sir.

Q. Additional to the sum you have testified to?

A. No, sir.

Q. At what time was the last money paid to Governor Carney?

A. I have already stated I did not know when that was.

Q. Do you know anything about a note for five thousand dollars being given to Governor Carney for expenses in this election?

A. I do not, unless the one I spoke of in answer to Mr. Morton.

Q. Have you any knowledge of a note being left with Stillings & Fenelon, lawyers, for collection, drawn upon yourself by Governor Carney?

A. I do not know. This is the one I spoke of, if any.

Q. Have you any information of that?

A. I have none, except Mr. Stillings called on me and said he had the paper.

By Mr. CARPENTER:

Q. Why was that note left for collection—did you ever refuse to pay it?

A. No, sir.

By the CHAIRMAN:

Q. Was it over-due?

A. Yes, sir; I think it was.

Q. Then it had not been paid?

A. No, sir; I think not. I think it was presented by Stillings to me, and I think I said I had not it to pay.

By Mr. TRUMBULL:

Q. Did you tell him who had it?

A. I told him it was not for me to pay.

By Mr. CARPENTER:

Q. That it belonged to Mr. Caldwell to pay it?

A. Yes, sir.

By Mr. CLARKE:

Q. Did this note belong to the \$15,000?

A. Yes, sir; the last \$5,000.

Q. You spoke of Carney and Shannon rooming with Mr. Clarke; what did you mean by that?

A. They roomed in one of your rooms; that is the way Carson put it to me.

Q. Do you know where Mr. Carson roomed?

A. No, sir; I do not.

LEN. T. SMITH recalled.

By the CHAIRMAN:

Question. Mr. Smith, were you present at the investigation before the committee of the Kansas legislature?

Answer. I was not.

Q. Had you left the State?

A. Yes, sir; I left the State before the legislature met, or soon afterward.

Q. Were you subpoenaed?

A. I was subpoenaed. I think the subpoena reached my house about a week before I returned home.

Q. Had you left the State on that account?

A. No, sir; I had been East, or away from home, for eight months, nine days out of ten.

Q. You had left before this examination had been put on foot?

A. Yes, sir.

Q. And you did not leave on that account at all?

A. No, sir. On the contrary, to put myself right, I sent word by several men who were going from New York, that at any time they needed me and would send me word, I would come.

Q. Did you know that the committee had reported you to the legislature as recusant?

A. Not at the time.

MONDAY, *January* 13, 1873.

IRA C. BUZICK sworn and examined.

Mr. CARPENTER. I wish this witness admonished, before testifying, that the oath administered here not only requires witness to state the fact in answering questions, but to state all he knows. The last witness, Mr. Len. T. Smith, seems to have intended to conceal the most important part of his testimony.

The CHAIRMAN. I suppose all witnesses know that the oath administered here is a legal oath, and that its violation will be perjury, with its consequences.

By the CHAIRMAN:

Question. Where do you reside?

Answer. In Lincoln County, Kansas.

Q. Were you at Topeka during the election of Mr. Caldwell to the Senate of the United States?

A. I was.

Q. In what capacity?

A. I was a member of the lower house.

Q. As whose friend did you go there?

A. Mr. Crawford's.

Q. State what you know, if anything, in regard to the use of money or other corrupt means upon the part Mr. Caldwell, or his friends, to procure votes for him for the Senate.

A. I do not know of any upon the part of Mr. Caldwell. I was not a friend of Mr. Caldwell, and had no secrets of his.

Q. You have no knowledge or information of any corrupt use of money on the part of him or his friends?

A. None except hearsay. I have heard rumors, since the election in Kansas, that money was used, but I know of nothing of my own knowledge.

Q. Do you know Mr. D. M. Adams?

A. I do.

Q. Did you have any conversation with him in regard to the election of Mr. Caldwell?

A. No, sir. I had in regard to the election of Mr. Clarke.

Q. Did you take a young man to Mr. Adams's room at any time and introduce him as your friend?

A. I did not, sir.

Q. Did you say to him that any arrangement made with this young man would be satisfactory to you?

A. I did not, sir. I took that young friend to Mr. Clarke, but not to Mr. Adams. I did not take him in the shape or form stated in this testimony.

By Mr. CARPENTER:

Q. In what form did you take him?

A. I took him in this way: We were talking over the senatorial contest; there was a land-office in the northwest of Kansas. This friend was interested the same as myself and the people in common. I have read that testimony, and know what Mr. Adams has said in regard to me, and I have no knowledge of it.

By the CHAIRMAN:

Q. You do not know anything of this young friend of yours saying to Mr. Adams that you wanted \$2,000 for your vote?

A. No, sir, I do not.

Q. You have no knowledge of that?

A. No, sir. If it was done, it was done without my knowledge.

By Mr. TRUMBULL:

Q. What was the name of the young man you introduced to Mr. Adams?

A. I did not introduce anybody to Mr. Adams.

Q. Well, to Mr. Clarke?

A. George Green.

Q. Did you not see Mr. Adams in company with him?

A. Not unless it was in passing and re-passing. I have no recollection of taking him into Mr. Adams's room.

Q. May you not have introduced him to Mr. Adams?

A. I might have, perhaps, introduced him, but I am positive I did not introduce him in Mr. Adams's room. I may have introduced him to Mr. Adams in a passing introduction in the parlors of the hotel, but I am very positive in my own mind that I never took that young man to a private room of Mr. Adams, or introduced him there.

By the CHAIRMAN:

Q. Not to his bank?

A. No, sir. This young man may have been in Mr. Clarke's room while Mr. Adams was there. I would not be positive of that.

Q. I will now ask you the general question whether you were ever offered by anybody a consideration for your vote?

A. I never was accepted by Mr. Clarke himself.

Q. What did Mr. Clarke offer you?

A. Mr. Clarke talked to me relative to a land-office in the northwest part of our State, and told me he would do anything he could. He wanted me to assist him in his election.

Q. What did he mean by "anything he could?"

A. He went on and explained. He told me I could have control of the land-office, and have a new district made there, and get a land-office at my place, and all these things.

Q. If he was elected?

A. Yes, sir; and if I would assist him in his election. Mr. Clarke told me I was a young man, and had expended money in the election, and all these things, and if I needed assistance, he had a friend, Adams, who would assist me.

Q. What did he mean by assistance?

A. I suppose he meant money.

Q. Did you understand it to be a proposition to pay for your vote?

A. Yes, sir.

Q. You understood it in that way?

A. Yes, sir; and I think Mr. Clarke understood it in that way.

Q. What did you say in reply to that?

A. Well, I could not tell the exact language and phraseology, but I told Mr. Clarke I was interested, and if I could do anything to get a land-office in our part of the State, I would do it.

Q. Did you agree to work for him?

A. No, sir, I did not.

Q. Whom did you vote for?

A. For S. J. Crawford, and I went there as his friend.

Q. Did you vote for Mr. Caldwell finally?

A. No, sir.

By Mr. CARPENTER:

Q. You stuck to your first love?

A. Yes, sir; if I did miss it. I had talks with Mr. Caldwell and his friends, and they asked me if I would support him and if I could, but there was no conversation with me about money, or with my friends, that I have any knowledge of.

By Mr. CLARKE:

Q. Let us go a little further about this land-office.

A. Yes, sir; go on.

Q. You said "establish a land-office;" do you refer to a new district?

A. No, sir.

Q. Or to a removal of the office?

A. The removal of the office from Junction City up farther west on the Kansas Pacific Railroad.

Q. Has that office since been removed?

A. Yes, sir.

Q. Has a new district also been made in your section since that time?

A. Yes, sir.

Q. Was that a question in which your constituents were interested?

A. Yes, sir.

Q. And generally discussed among members of the legislature?

A. Yes, sir.

Q. I understood you to say I spoke to you about the land-office?

A. Yes, sir.

Q. Did not you and members of the legislature come to me, and say it was desirable that the office should be removed from Junction City to Salina?

A. Yes, sir; I did; I am not sure about others.

Q. Did you not say it was desirable that a new district should be made in your section?

A. Yes, sir.

Q. And that you desired to control the location of the land-office?

A. Yes, sir.

By Mr. TRUMBULL :

Q. Were all these public measures that all the candidates were understood to be for; were the people generally in favor of these measures on all sides?

Q. Yes, sir; my constituents, and people generally in my part of the State where these were public measures, felt a direct interest in it.

Q. Were all the candidates committed to them in advance?

A. I do not know only as to Mr. Crawford and Mr. Clarke. I do not remember of talking to Mr. Caldwell about it.

By Mr. CLARKE :

Q. You were anxious to accomplish these results?

A. Yes, sir.

By the CHAIRMAN :

Q. Did you approach Mr. Clarke on the land-office business, or did he approach you?

A. I had never met Mr. Clarke, and never lived in Kansas only about a year. I was introduced to him. I cannot tell who introduced me to Mr. Clarke. I was introduced to him in his private room. I am under the impression it was by Mr. Bond, of Montgomery, a member, who took me there. He was a friend of Mr. Clarke. Mr. Clarke wanted to know my feeling in regard to the senatorial election. I told him very frankly whom I was supporting. Mr. Clarke gave me general conversation—nothing directly—and I think that Mr. Clarke then told me that he would like to see me the next day or the day following, I would not be positive which. Anyway, I did see him the next day or the day after. Mr. Clarke then had a private conversation in his private room adjacent to his reception-room, and this other conversation took place.

By Mr. CLARKE :

Q. Do you remember a conversation with me something like this: coming to see me, and saying you were a new man in the State, and had consulted with some representatives in different counties; that Mr. Caldwell and his friends were attempting to secure his election by money, and you had consulted with gentlemen, and that you intended to live in Kansas, and had a character to sustain, you could not afford to take his money—

A. You said—

Q. That you being a new man, could not take Caldwell's money, and there were certain local measures you desired to secure, and wished to consult me about them. Have you any recollection about that conversation?

A. Yes, sir, I have, but not on that consideration; but it was a little different conversation. It was your money and not Mr. Caldwell's that we talked about. I have a distinct recollection of it. I have a recollection like this of the conversation in that private room.

Q. What room do you refer to?

A. Your private room, adjacent to your reception-room.

Q. Near the corner of the building?

A. Yes, sir. You went on and stated to me about it, and I told you money matters were something I did not wish to deal in, and gave the circumstances as you have just given them to me, but Mr. Caldwell's name was not mentioned. It was your own canvass that was spoken of, and you made a proposition like this: that you were willing to accommodate me in any way I could name, and that you had a friend named Adams; and any money or anything else, if I had been to expense in the

campaign, that you would reimburse me, and then and there this conversation ensued that you detail; but I told you I did not want your money or anything of the kind; that if you could do anything with me to benefit myself and my people in that land-office, if you were elected, I would take it as a great accommodation, and would see you again before the final vote, if I had to give up Governor Crawford.

Q. You state that you did not meet Mr. Adams in his private room?

A. I do.

Q. Where was that private room?

A. I do not know. I never was informed.

Q. You might have met him in my room?

A. Yes, sir; I would not be positive.

Q. You might have introduced Mr. Green to him?

A. I do not remember of introducing Mr. Green to Mr. Adams.

Q. Might you not have done it?

A. I might. I do not remember.

Q. Is it not quite likely that you did?

A. If Mr. Green ever went into your room with me, and Mr. Adams was there, I would have introduced him. There is no question about that. I was in your room half a dozen times.

Q. Where do you reside?

A. Lincoln County, Kansas.

Q. What is your business?

A. Grazier, at this time.

Q. What business have you been in since the adjournment of the legislature?

A. In the stock business and the law business.

Q. Where have you been most of the time?

A. In Lincoln County, Kansas.

Q. At your own home?

A. Most of the time.

Q. Have you been under arrest?

A. Yes, sir.

Q. For how long?

A. For about seven months.

By Mr. CARPENTER:

Q. What was that arrest about? Let us know.

A. That was concerning a letter which was opened by me, written by Mr. Carney to a man named Baker, while I was a member of the house. The arrest took place, I think, a year ago last October. The indictment was found two years ago this coming April, during the winter of the legislature. While I was a member of the legislature I had a brother who sickened and died, and I was gone home ten or twelve days, and when I returned there were a dozen or fifteen letters that had accumulated in my mail in the house of representatives, in the office. A page, a little girl named Jennie Maxwell, brought me the letters, and one was addressed to a man named Baker; and this little girl, quite small, brought the letters to me. I opened this letter, as I was opening one after the other, and when I opened it, I found the letter had a private transaction in it, and found it was not for me. After that Governor Carney wanted me to sign a paper, the substance of which was that the contents of that letter were so and so, and Governor Carney and some of his friends went before the United States grand jury, and I was indicted for opening that letter that had been in the United States post-office; but none of them appeared at the court for the trial, and I was acquitted by the jury, who never went out of the box.

By the CHAIRMAN :

Q. I will ask if the contents of that letter, which you were indicted for opening, were connected in any way with the senatorial election ?

A. Not to my knowledge. From the letter itself I could not tell what it was for.

By the CHAIRMAN :

Q. How did Mr. Carney come to want you to sign a statement of what the contents were ?

A. I received the letter at the time during the legislature when Governor Carney was interested in these other matters, and the contents were damaging, by general report, to Mr. Carney's private character.

By Mr. CARPENTER :

Q. It was reported that the contents of that letter were prejudicial to his private character, and he wanted you to sign a statement ?

A. Yes, sir.

By the CHAIRMAN :

Q. How did the contents get out ?

A. I carried the letter back to the postmaster.

By Mr. CARPENTER :

Q. Did you carry it back in the broken envelope ?

A. Yes, sir.

Q. Were you subsequently tried on that indictment ?

A. Yes, sir.

Q. I hope you were acquitted.

A. Yes, sir.

Q. My anxiety about that is, because I have committed the same offense about fifty times.

A. And I have several times.

By Mr. TRUMBULL :

Q. Was there any inclosure in that letter—was there a check in it ?

A. I do not remember, for I never looked at it only for an instant, and do not know whether it was a check, or due-bill, or draft. I think it was a draft.

Q. Do you not know it was a check for nine hundred and some odd dollars ?

A. I know the amount; it was nine hundred and odd dollars.

By the CHAIRMAN :

Q. Whose name was signed to that check ?

A. I think it was Mr. Carney's.

By Mr. TRUMBULL :

Q. And you read the letter ?

A. Yes, sir.

Q. And read the check ?

A. Yes, sir.

Q. You read it all after you found it was not for you ?

A. Yes, sir.

Q. After you opened the letter and discovered that it did not belong to you ?

A. There was no name upon it. I read, of course, to see what it was.

By the CHAIRMAN:

Q. You say there was no name on it?

A. No, sir; not at the first.

By Mr. TRUMBULL:

Q. It was addressed on the outside?

A. Yes, sir.

Q. You knew, then, that it was not for you?

A. Yes, sir.

Q. Still you went on and read it?

A. Yes, sir.

Q. Mr. Baker was about there?

A. No sir; not then.

By Mr. CARPENTER:

Q. The question is, did you read it after you knew that it was not for you?

A. No, sir; not until after I read it.

By the CHAIRMAN:

Q. Was it addressed on the inside at the head of the letter to Mr. Baker?

A. No, sir; at the head of the letter was this check or note. I think it was a check or returned note or draft.

By Mr. TRUMBULL:

Q. When you saw that, did you not in a moment know that it was not for you?

A. I did not know until I read down and saw names named.

Q. When you discovered that, you still went on and read the letter?

A. No; there was a man named Snead, from Salina, sat at the right of me, and there were others around, and I got up and went to the postmaster, stated I had received that letter, and did not belong to me, and asked him what I should do about it.

Q. And gave him the check?

A. No; he refused to take the letter. I told him I wanted the letter left in his office until the man came in.

Q. Did you leave the check?

A. Yes, sir; the whole thing.

By the CHAIRMAN:

Q. Was that check payable to Mr. Baker?

A. I do not know whether it was payable to him or whether it was a returned note. It was for Mr. Baker and for his benefit.

Q. An obligation on the part of Mr. Carney?

A. Yes, sir.

Q. Was that upon any bank?

A. I am not sure about that; I just glanced at it.

Q. You stated that Mr. Carney fell out with you because you refused to sign a statement as to the contents of that note. What did he want you to sign?

A. He wanted me to sign a manuscript like this, that the secret of that letter was a legitimate transaction; I think Governor Carney told me himself that that was a returned note; that this man had been in the mercantile business while Carney was in the wholesale business, and had purchased goods of him, and that it related to that; I told him I did not know anything about it.

Q. What do you mean by saying that it was an obligation by Carney to pay Baker money? How do you call that a returned note?

A. I say it was a note of some kind; I never read it except that one time; I saw the amount of dollars, everything in it, and it was returned to Baker.

By Mr. CARPENTER:

Q. Whose note was it; who signed it?

A. The note was signed; I do not know whether it was by Baker or Carney; I do not know whether it was a note from Carney to Baker or not.

By the CHAIRMAN:

Q. Did you not state awhile ago that it was signed by Carney, and was an obligation to pay Baker?

A. Yes.

By Mr. TRUMBULL:

Q. I thought you stated that the letter was not signed at all?

A. It was not addressed at the top; it was a little note.

By the CHAIRMAN:

Q. Your impression is that it was signed by Baker?

A. I do not know whether it was a note by Carney to Baker or by Baker to Carney; I know the letter outside was addressed to Baker, and inside of it there was a note to Baker, stating that he would find so and so in it.

Q. Was this a note that Carney held on Baker for goods, as you understood it, and that Carney was giving up to Baker?

A. I do not remember.

Q. Was it understood at the time that Baker was a member of the legislature?

A. No, sir; but he was contesting for the seat.

Q. Did he have the certificate or did anybody else? Who had the certificate?

A. A member had his seat at the time.

Q. Did Baker afterward get the seat?

A. Yes, sir.

Q. Did he get the seat before or after the senatorial election?

A. I am not positive in regard to that. I think it was afterward.

By Mr. CLARKE:

Q. In what court was this trial had?

A. In the United States district court.

Q. You were prosecuted?

A. I was.

Q. Did all this matter come out in the investigation in that court?

A. I do not know that it did.

Q. Were the letter and note present in the court?

A. I do not think it was. The prosecution did not bring anything up. Mr. Carney nor any of his friends ever appeared in court. They indicted me, but never appeared.

Q. You say this letter was signed by Carney?

A. The letter was.

Q. What did you mean by testifying that the letter contained statements very damaging to Carney?

A. I do not say so. I said that was the report—the general report.

By Mr. CARPENTER:

Q. On the streets?

A. Yes, sir; the letter itself, so far as I know, did not damage him.

By Mr. CLARKE:

Q. Have you been under arrest on any other charge since that time?

A. Yes, sir; I was charged for murder in the first degree, murdering one Ezra Hubbard.

By Mr. CARPENTER:

Q. What became of that?

A. I was acquitted by a jury. I am perfectly willing to answer these questions.

Q. Have you been in jail most of the time since the election of Senator?

A. I have never been in jail in my life, sir.

WASHINGTON, *January 14, 1873.*

JOEL THOMAS sworn and examined.

By the CHAIRMAN:

Question. Where do you reside?

Answer. I reside at Saint Louis at this time.

Q. Where did you reside at the time of Mr. Caldwell's election to the Senate?

A. At Lawrence, Kansas.

Q. Were you at Topeka during this election?

A. I was.

Q. For what purpose were you there?

A. I went up there to oppose Mr. Clarke and do what I could to defeat him in the election.

Q. Were you in favor of Mr. Caldwell?

A. I was not. I did not know that he was going to be a candidate.

Q. After he did become a candidate were you in favor of him against Mr. Clarke?

A. I was.

Q. Did you do anything to secure his election?

A. Not that I know of.

Q. State what you know in regard to the use of money or other corrupt means to secure Mr. Caldwell's election.

A. I do not know of any, not to my personal knowledge.

Q. Do you know from anybody else of any?

A. No, sir; I cannot say that I do.

Q. State if you are acquainted with G. W. Wood.

A. Yes, sir.

Q. Was he a member of the legislature?

A. He was.

Q. I will ask you whether you had any conversation with him in regard to voting for Mr. Caldwell?

A. I had.

Q. In the course of that conversation did you make any offer or proposition to pay him any money to vote for Mr. Caldwell?

A. I never did, sir.

Q. You never did?

A. I never did.

Q. I will ask you the direct question, as I have Mr. Wood's testimony before me, whether you offered Mr. Wood the sum of \$2,000 in money to vote for Mr. Caldwell?

A. I never did.

Q. Did you offer him any other sum?

A. I never did.

Q. Or intimate any sum?

A. Well, I intimated to Mr. Wood—he told me that he was offered a thousand to vote for Mr. Clarke; I intimated to him that I should want more money than a thousand to sell out.

Q. That you would want more money than a thousand dollars?

A. Mr. Wood told me he was offered a thousand dollars by Mr. Clarke's friends. I told him I should want more money if I was going to sell.

Q. Did you mention \$2,000?

A. I do not think I did. I have no recollection of mentioning two thousand.

Q. What do you say?

A. I have no recollection of offering him \$2,000.

Q. Did you mention that he should have \$2,000 instead of \$1,000?

A. No, sir.

Q. Did you say anything about \$2,000 any way?

A. I have no recollection of ever speaking to him about that.

Q. Did you tell him he could get more than \$1,000 by voting for somebody else?

A. I might have told him so.

Q. Did you tell him so? What is your recollection? You say you might have done it. If you had told him so would you not remember it?

A. No, sir; I do not think I ever told him he could get \$2,000, or more than a thousand.

Q. You do not think you did?

A. No, sir.

Q. Did you electioneer him or say anything to him in regard to voting for Mr. Caldwell?

A. Yes, sir; I did.

Q. What inducements did you present to him to vote for Mr. Caldwell?

A. Well, I do not know that I could state further than I considered him the best man before the legislature.

Q. And you took an active part in Mr. Caldwell's behalf?

A. No, sir; I do not know that I did.

Q. Had you been offered any compensation, in any way, directly or indirectly, to work for Mr. Caldwell?

A. No, sir.

Q. Were you expecting to make anything by it?

A. No, sir.

Q. Not in any way?

A. No, sir.

By Mr. CARPENTER:

Q. Did you make anything?

A. No, sir.

Q. Did you have your expenses paid?

A. Well, I paid my own hotel bill.

Q. Has that been refunded to you?

A. No, sir.

By the CHAIRMAN :

Q. Was there any promise that it should be ?

A. No, sir. Understand me, I paid my hotel bill at the Capitol House. I stopped at the Capitol House and the Tefft House both. My bill was paid at the Tefft House.

By Mr. CARPENTER :

Q. By whom ?

A. I do not know. I suppose by Mr. Caldwell. It never was presented to me. I paid my bill at the Capitol House. I have the receipt for it.

By the CHAIRMAN :

Q. Did you intimate to Mr. Wood, or give him to understand by general language or phrase in any way, that he could make more than a thousand dollars by voting for Mr. Caldwell ? I commend this question to your own memory and conscience.

A. I do not know but I did.

Q. Upon whose authority did you make that communication ?

A. Upon no one's.

Q. Had you been assured by Mr. Len. T. Smith, or anybody else, that money could be had for votes ?

A. I had not, sir.

Q. Had you been authorized in any way to approach Mr. Wood or anybody else on that subject ?

A. No, sir.

Q. Then, if Mr. Wood had accepted this intimation, from whom would you have expected the money to come ?

A. Well, I did not make any promise of any money to Mr. Wood whatever.

Q. You say you perhaps intimated to him that he could make more to vote for Mr. Caldwell. Now, who was to pay that money ?

A. I asked Mr. Wood. The only conversation I recollect distinctly was the night before the final vote. He was speaking about being offered a thousand dollars and so on, and I told him to go to the Tefft House and see Mr. Caldwell's friends. I went with him, I think, to the Tefft House, and introduced him to Mr. I. S. Kalloch. I do not remember of seeing Mr. Wood afterward.

Q. You do not remember of seeing him afterward ?

A. No, sir.

Q. Was your suggestion to him, that he had better go and see Mr. Caldwell or his friends, connected with the intimation that you gave him that he could get more money than a thousand dollars from Mr. Caldwell ?

A. Mr. Wood stated that he had been offered so and so, and they had failed to come and see him, and that he did not propose to wait any longer. I suggested to him to come and go to the Tefft House, and see Mr. Caldwell's friends.

Q. Did you give him to understand that he could get more from them than this thousand dollars ?

A. I do not think I did.

Q. Then, in what form did you intimate to him that he could get more by voting for Mr. Caldwell ?

A. I do not know, further than this: Speaking of the thousand dollars he could get, I said to him if I was going to sell I should want more than that; that if there was a thousand dollars there was probably more money in it, and asked if he had seen the other parties.

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Q. Would you have sent him to Mr. Caldwell with such an understanding as that without knowing from some source or having some understanding with Mr. Caldwell or his friends as to paying money for votes?

A. Mr. Kalloch told me to bring Mr. Wood up.

Q. Then it was in pursuance of a request from Mr. Kalloch?

A. Yes, sir.

Q. Was he one of Mr. Caldwell's friends?

A. I understood him to be.

Q. Did Mr. Kalloch intimate to you that you might intimate money to Mr. Wood?

A. No, he did not. He told me he would like to see Mr. Wood, and asked me to bring him to the Tefft House.

A. Then, I come back to the question, how did you come to intimate to Mr. Wood that he could get more money from Caldwell's friends for his vote than the thousand dollars unless it had been intimated to you by somebody that such transactions were going on? Would you have taken the responsibility of making an intimation of that kind without some previous authority?

A. If I did, I made the intimation without having an understanding.

Q. You have said that you made the intimation?

A. Yes, sir; but I was not authorized by any one to offer any money for votes.

Q. Would you have paid it out of your own pocket?

A. No, sir; I merely meant to go and see the other parties and see what they would do.

Q. Was it rumored around there or not that money was being paid for votes?

A. Yes, sir; it was.

Q. Did you believe it at the time?

A. Well, to answer you truthfully, I did.

Q. Now, sir, did you believe at that time, when you requested him to go and see Caldwell and Mr. Caldwell's friends, that they were paying money for votes, or would do it?

A. I did.

By Mr. CARPENTER:

Q. What did that impression rest upon?

A. Probably general talk.

Q. You knew no fact or circumstance?

A. No, sir; nothing.

Q. Only general rumor?

A. General rumor on the street.

By Mr. TRUMBULL:

Q. Was there such talk among his friends?

A. Not that I recollect.

By Mr. CARPENTER:

Q. Was that talk on the part of men who were fighting Caldwell, charging him with buying votes, or were Caldwell's friends saying they would pay for votes?

A. The talk was by Caldwell's enemies. I did not hear his friends say they would buy votes. I heard them remark several times they would not use money.

Q. Then the common talk was by those fighting Caldwell that he was using money?

A. Yes, sir; that he was buying that election.

By the CHAIRMAN:

Q. Did you not state a moment ago that you had the impression yourself that Caldwell's friends were using money?

A. I said I believed money was being used.

Q. Did you not say by Caldwell's friends, and that you believed it?

A. Yes, sir.

Q. Did you get that from Mr. Caldwell's enemies or his friends?

A. Well, it was talked of among his friends very extensively.

Q. You believed it?

A. I believed money was being used.

Q. By himself or his friends, as you said?

A. No, sir.

Q. You stated a little while ago that you believed money was being used by Mr. Caldwell or his friends. Do you take that back or stand by it?

A. Well, I do not know now. There was talk that there was a great deal of money used, and then there was this Governor Carney talk. I heard of that; that he had been bought off with so much money.

By Mr. TRUMBULL:

Q. That who had bought him?

A. That he had withdrawn by having his expenses re-imbursed. I do not remember the other things, but I drew that inference, that they were using money; that money was being used.

By Mr. CARPENTER:

Q. Was that generally reported before the election, that Carney had been bought off from being a candidate?

A. It was reported there during the senatorial contest, on the streets.

Q. Before the election?

A. Yes, sir.

By Mr. CROZIER:

Q. When did you first become acquainted with Mr. Caldwell?

A. I believe that I was never introduced to Mr. Caldwell until at Topeka two years ago. I have known him by reputation and by sight some little time.

Q. Upon whose solicitation did you go to Topeka?

A. Not upon any one's.

Q. Why did you go?

A. Because I was opposed to Mr. Clarke, and trying to defeat him. I had a little influence.

Q. In whose favor did you intend to operate?

A. When I left home Governor Carney was my choice.

Q. Your prime object was to defeat Mr. Clarke?

A. Yes, sir.

By Mr. CALDWELL:

Q. Did I ever have any conversation with you in regard to the election?

A. None at all. I was simply introduced to Mr. Caldwell by Mr. Kalloch.

Q. Did I ever intimate to you that I wanted you to procure votes for me?

A. No, sir. You never spoke to me on the subject.

MONDAY, *January* 13, 1873.

JAMES L. McDOWELL sworn and examined.

By the CHAIRMAN :

Question. Where do you reside?

Answer. At Leavenworth, Kansas.

Q. Were you at Topeka during the senatorial election of Mr. Caldwell?

A. I was at Topeka a portion of the time.

Q. For what purpose were you there?

A. To advance the interest of Mr. Caldwell or assist in securing his election.

Q. I will ask you, Mr. McDowell, what you know in regard to the use of money by Mr. Caldwell or his friends in procuring his election by any corrupt means, or anything of the kind?

A. I do not know of any corrupt means being used.

Q. Do you know of the use of any money?

A. I do not, with this exception: I went to Topeka and staid there some two or three weeks. About a month afterward Mr. Smith asked me what it cost me during the time I staid there.

Q. After the election was over?

A. Two or three weeks afterward.

Q. What Smith was that?

A. Mr. L. T. Smith.

Q. Len. Smith, as he is called?

A. Yes, sir. I told him I supposed my expenses had been some forty or fifty dollars. He insisted upon paying me that amount, and I, being a poor man, allowed him to do so, and took the money.

Q. What were your politics?

A. I had not taken any part in politics for some three years prior to that time. Some persons said I was a democrat, others that I was a conservative republican.

Q. How did you understand the matter yourself?

A. I believed I was a conservative republican.

By Mr. CARPENTER :

Q. Not a "liberal republican?"

A. I was not a liberal republican.

By the CHAIRMAN :

Q. State what you know about any bargain or arrangement being made by Mr. Caldwell or any of his friends for the retiracy of Governor Carney from the canvass for the senatorship.

A. I know nothing about it, except what I saw in writing afterward.

Q. State what that was.

A. From one to two months after the senatorial election—I have no means of fixing the date any closer—it was at least one month afterward, Mr. Smith, in Leavenworth, handed me a paper signed by Mr. Carney and requested me to copy it, which I did. The substance of it—

Q. What became of that copy?

A. I handed the copy and the original to Mr. Smith.

Q. What was the substance of that paper, or the words of it?

By Mr. CARPENTER :

Q. You say that paper was signed by Carney at the time you copied it?

A. Yes, sir.

By the CHAIRMAN:

Q. To whom was it addressed?

A. It was not addressed to any person.

By Mr. CARPENTER:

Q. State what it was, as near as you can.

A. As near as I can remember the words were—I cannot give the words; I can give the substance.

By the CHAIRMAN:

Q. That will do.

A. "I hereby agree that I will not be a candidate during the present session of the legislature or during the present year," naming the year 1871, "or if I do to forfeit my word of honor." I do not remember of anything more in the paper; there may have been; that is the substance, as near as I can remember.

Q. Did it say that if he became a candidate he would forfeit \$15,000?

A. I do not remember. There may have been that in it.

Q. Did it contain any pledge that he would use his influence to procure the election of Mr. Caldwell?

A. I think it did not.

Q. Did it say anything about procuring his friends to go for Mr. Caldwell?

A. I think it did not.

Q. Had you ever known anything about the existence of that paper before?

A. I had not.

Q. Had never heard of it?

A. No, sir; I had heard rumors from the friends of opposing candidates of Mr. Carney's having withdrawn from the canvass. I was on the ground. I heard ten thousand rumors affecting the action, if to be believed, of every candidate for the Senate there, of whom there were six or seven. I attached little importance to any of them.

Q. How did Mr. Smith come to ask you to copy that paper?

A. I cannot say. I have always been on friendly terms with Mr. Smith.

Q. Have you lived in Leavenworth?

A. Yes, sir; for sixteen years.

Q. Have you been particularly intimate with him?

A. I have, as much so as any other gentleman.

Q. Have you had particularly intimate business relations with him?

A. No, sir.

Q. You do not know of any particular reason why you were requested to copy it?

A. No, sir; he handed me a paper and requested me to copy it, and I did so. When he called on me some days afterward, I told him I had done it and handed it back.

By Mr. HILL:

Q. Did you make but one copy.

A. Yes, sir.

By the CHAIRMAN:

Q. When he proposed to pay your expenses, after the election, had you had an understanding that he should do it?

A. No, sir; I had not.

Q. How did you come to go to Topeka at that time?

A. Both Mr. Smith and Mr. Caldwell solicited me, and I made a call either at Mr. Smith's residence or Mr. Caldwell's, and the gentlemen were together; I think it was at Mr. Caldwell's, because Mr. Caldwell was ill in bed at the time,

Q. You were there at work for Mr. Caldwell?

A. I was.

Q. Had you any assurance, before you went there, that you would be paid for your time and trouble?

A. Not any. I did not ask any, and would not have received any.

Q. What was your inducement, then, to go there and work for Mr. Caldwell?

A. My strongest inducement was to secure the defeat of Mr. Clarke. It was the strongest inducement that could have been held out to me.

Q. Were there any democratic members of that legislature?

A. There were.

Q. Did you not go there for the purpose, and were you not asked to go for the purpose, of controlling democrat votes?

A. I was not.

Q. Did you make any attempt to control them?

A. I made the attempt so far as the use of legitimate reasons and appeals to control any one, republican or democrat, is concerned, for Mr. Caldwell.

Q. Did you purport to act with the democratic members, or the democracy, while there?

A. I did not.

Q. Was there anything said to you about procuring an appointment in case of Mr. Caldwell's election?

A. There was; in answer to inquiries by Mr. Caldwell to myself prior to going to Topeka.

Q. What was that?

A. I inquired in reference to Federal offices, whether he purposed to make a change if elected.

Q. What offices?

A. One a post-office, the other in the internal revenue.

Q. In Leavenworth?

A. The headquarters of the internal revenue is in Leavenworth for the State.

Q. Did you wish to procure one of those offices?

A. No, sir.

Q. Or control them?

A. No, sir.

Q. What was said about it?

A. I do not know that Mr. Caldwell said anything about successors.

Q. What took place?

A. I asked if he purposed making a change in those offices, and he said he did.

Q. What then?

A. That was all I wished to know of Mr. Caldwell.

Q. Did you ask him whom he proposed to appoint?

A. I did not. On the contrary, I told him I did not care whom he appointed.

Q. You were not an applicant yourself?

A. I was not, then nor since.

Q. Nor had you any expectation?

A. I had no expectation.

By Mr. TRUMBULL :

Q. Your chief object was to get somebody out of office ?

A. Yes, sir.

Q. You wanted to get them out ?

A. It was a private motive of my own. I simply asked him what he purposed doing.

Q. You wanted to know whether he would turn these men out ?

A. I wanted to know whether his own opinion was not in favor of turning them out.

Q. You asked that for your own guidance ?

A. Yes, sir.

Q. And you wanted to beat Mr. Clarke ?

A. Yes, sir.

Q. Then your chief object was to beat somebody ?

A. Yes, sir.

Q. To get men out of office and beat somebody ?

A. Yes, sir. To beat Mr. Clarke was not my prime motive, but I wanted a worthier man in his place.

Q. I understand you to say that your chief motive was to beat Mr. Clarke ?

A. Yes, sir ; but also to get a worthier man in his place.

Q. But your object was to get him out ?

Q. I did not think we could well get a worse man.

By the CHAIRMAN :

Q. Did you know Chester Thomas ?

A. Yes, sir.

Q. And J. M. Steele ?

A. I never knew him until I met him here yesterday.

Q. Was he a member of the legislature ?

A. Yes, sir.

Q. In which house ?

A. I think in the lower house.

Q. Did you have a conversation with Mr. Thomas ?

A. He had with myself frequently.

Q. Had you any with him ?

A. In answer to his conversation, I did.

Q. Only in response ?

A. I never sought an interview with him.

Q. Did Mr. Thomas talk to you, in the presence of Len. T. Smith or without his presence, in regard to the payment of money for votes ?

A. On the evening between the first and second ballots Mr. Thomas approached me ; he approached me very frequently, and stated that there were certain members of the legislature that through him wished to dispose of their votes. I shoved him off each time.

Q. I will ask you whether Len. T. Smith said, in your presence, to Mr. Thomas that they could get as many votes as they wanted now for \$500 apiece ?

A. He did not.

Q. Did you tell Mr. Thomas in any of these conversations that Mr. Steele had already been fixed ?

A. That is Mr. Thomas's language, not my language. I did not use that with him nor any other person.

Q. Did Mr. Thomas tell you that Mr. Steele had been fixed ?

A. No, sir. He sought anxiously to dispose of Mr. Steele.

By Mr. CARPENTER :

Q. That is, to sell his vote ?

A. Yes, sir.

By the CHAIRMAN :

Q. Did you tell him in reply that Steele's vote had already been obtained ?

A. I did not. I may have told him this, and think I did ; and I have thought the matter over very carefully ; I may have told him that we had an assurance that Mr. Steele would vote for Mr. Caldwell. I had endeavored prior to that, and different friends had endeavored, to induce Mr. Steele and constituents of his, a number of whom were there from his county, to go for Mr. Caldwell on the first ballot. Mr. Steele declined doing so, and stated that he was instructed to vote for Mr. Crawford—I believe it was Mr. Crawford ; and this conversation that Mr. Thomas had with me occurred between the first and second ballots, in the evening. The only time I recollect of his alluding to the matter was on the day between the first and second ballots.

By Mr. CARPENTER :

Q. The ballots in the caucus ?

A. No, sir ; the ballots for Senator.

Q. They were not ballots, but votes ?

A. Well, we call them "ballots."

Q. Was there any caucus nomination made at that time ?

A. There was not. There were some six or seven republican candidates.

Q. Was there any caucus called for the purpose ?

A. There was not.

By the CHAIRMAN :

Q. Do you know for whom Steele voted ?

Q. I do not know whether he voted for Mr. Caldwell on the second ballot ; I am certain he did not on the first ballot.

Q. Did you complain to Mr. Thomas, after the first ballot had been taken, that Steele had not voted as he had agreed to ?

A. To the best of my recollection I never did.

Q. And did you say that you thought that he would vote right next time ?

A. I may have said to Mr. Thomas, in answer to his solicitation, what I said before, that what I understood from our friends was that Mr. Steele would vote for Mr. Caldwell on the second ballot.

Q. At the time this was going on, what did you know in regard to the retracy of Governor Carney ?

A. I went there on Tuesday, prior to the election, either the 16th or 17th, the election occurring on the 23d or 24th.

Q. You went there on the Tuesday of the week before the election ?

A. Yes, sir ; the first thing I did was to call on Governor Carney. I had seen his published card stating that he would not be a candidate ; he had not been a candidate up to that time, he said, personally—I had seen him personally prior to that—that he would not be a candidate, but I believed that he would. He published this card, and in the mean time I called on him and asked him if he had withdrawn from the contest. He said he had. I asked him if he was sincere in regard to it, or if it was simply a political movement. He said he was sincere. I asked him why he had withdrawn. He said Mr. Caldwell would not withdraw,

and as there was no hope of electing either if both remained candidates he had withdrawn.

Q. Did he say anything about having received a promise of a consideration, or being paid to withdraw?

A. He said nothing whatever upon that subject.

Q. What do you know in regard to an arrangement made with the friends of Mr. Clarke, by which he was to withdraw upon condition of his expenses being paid?

A. An arrangement made?

Q. What do you know of an arrangement with Mr. Clarke or his friends that he should withdraw?

A. I know nothing relative to the subject except what I have heard in the testimony since coming here. On the contrary, I had every reason to suppose there was not an arrangement made there. My reasons for thinking so were these: I did not believe, up to 12 o'clock on the Tuesday night after the first ballot, and when Mr. Clarke was irretrievably gone, that there was, or could have been, an interview between Mr. Caldwell and himself; and prior to that time every friend of Mr. Clarke, that I knew to be his, in the legislature, was in Mr. Caldwell's parlor and mixing with Mr. Caldwell's friends, regarding Mr. Clarke's chances as entirely gone.

Q. Now, is there anything else that you remember, either within your knowledge or as having been told to you by others, touching the use of money at that election?

A. Of my own knowledge I know nothing more than what I have stated. I was told by others what every other person was told who was mixing in the canvass, that there was not a single candidate or his friends but was attacked by opposing candidates. There was not a single one but what was charged by opposing candidates with using money; but I will say that up to the time of Mr. Clarke's withdrawal the rumors and statements made there, and the reasons given, were much more notorious as concerning him than they were in any other person's candidacy that I knew of in the Kansas legislature, and I have attended there, as a citizen, at all of them, I believe, but one. I did not attach, as I said before, importance to any of the rumors. It was customary, much more so in Kansas than any other State I have known. It was one of their systems of electioneering for their candidates; each one trying to bluff the other; so that, as I stated before, there was not a single candidate but was charged.

Q. What do you mean by "bluffing" the other? Accusing the other of corruption?

A. Yes, sir; charging corruption, and thereby working among the country members especially, who had not been there before, and who, once convinced that such a course was pursued, would be certain to go for some opposing candidate. I give that in answer to your question. There were multitudinous rumors, but I attached no importance to any of them.

By Mr. CROZIER:

Q. You say that you went up to Topeka at the solicitation of Mr. Caldwell and Mr. Smith. Were you not, at that time, United States marshal for the district of Kansas?

A. I was.

Q. How far did that district extend?

A. Over the entire State.

Q. Had you not a very extensive acquaintance in that State?

A. I knew nearly every old resident in the State, and do to-day.

Q. Did you not have a very extensive acquaintance in the legislature?

A. I knew a great many members.

Q. Was it not for that reason that you were solicited to go there?

A. I suppose it was on account of my acquaintance, and what legitimate influence I had through that acquaintance.

Q. I will ask you whether, during that canvass, a great deal was not said on the street, in a jocular way, about the use of money?

A. Most of what was said was said in that way. As I remarked, in answer to a similar question, it was customary to return such answers.

By Mr. CALDWELL:

Q. This \$50, you say, that Mr. Smith paid you, was for hotel expenses?

A. Yes, sir; my hotel expenses and fare.

By the CHAIRMAN:

Q. I will ask whether that custom of accusing each other of being corrupt had grown out of the fact that corruption had been customary?

A. Of my own impression and knowledge I do not know of a dollar ever having been used, Mr. Chairman. It has been charged again and again. That is the custom, always.

By Mr. CARPENTER:

Q. Do they charge that it is going to be used at the next election?

A. Yes, sir; they do. That is the common impression.

By Mr. CALDWELL:

Q. How long have you known me?

A. I have known you ever since you came to Leavenworth, which, I think, is ten or eleven years ago. I knew you at a very early day, in the history of the city and State.

Q. Have you ever known of my having any business or occupation?

A. I certainly did.

Q. It has been stated by a witness that I was only a speculator. Did you ever know of my having any visible means of support—any regular business of importance?

A. I know that you, at a very early day—I cannot remember the year, but some eight or nine or ten years ago—were the principal party in organizing a company which, for some three or four years, did all the freighting of the Government across the plains, prior to the building of railroads. It was in that capacity that I first became acquainted with you, and knew something of your operations.

Q. Were they large, or small?

A. They were very large.

By Mr. CROZIER:

Q. Something has been said about the organization of a committee in the interest of Mr. Caldwell. What do you know about that?

A. I knew of no committee being organized.

Q. Were the friends of Mr. Caldwell in the habit of assembling in a particular room?

A. I knew of friends of Mr. Caldwell and their acquaintances meeting; the only place they had to meet.

Q. Do you mean the rendezvous of Mr. Caldwell's friends generally?

A. The friends of Mr. Caldwell and Mr. Carney both were admitted there. The room was eight or ten doors from the Tefft House.

Q. Were you a member of any committee up there ?

A. I was not.

Q. Do you know who was a member of any committee ?

A. I knew of parties who supposed they were a regular committee for managing the canvass ; self-constituted.

Q. Was there any committee ?

A. There was not.

By the CHAIRMAN :

Q. You say you knew parties who supposed they were a committee ?

A. Yes, sir.

By Mr. CARPENTER :

Q. You know who were supposed to be a committee ?

A. There were some four or six friends of Governor Carney, persons who had been particular friends of Governor Carney, who took particular charge of the canvass, and supposed they were managing it, but knew but little of the canvass.

By the CHAIRMAN :

Q. Who were they ?

A. Mr. Spriggs, Mr. Osborn—however, Mr. Osborn knew considerable, because we believed he was heartily in favor of electing Mr. Caldwell. Mr. Drenning was not there. He did not take an active part ; he knew considerable. We believed him to be true. There were a number of others. Governor Carney was in the room frequently. I can mention others. Several friends of Mr. Clarke were there frequently, A gentleman who had been an Indian agent, whose name I cannot call, was there frequently. I might go on, and if I named one I might name twenty, or thirty, or forty, who were just as much a “ committee ” as any one. The only committee (I should, perhaps, say that we assembled for consultation) at all was, when there were several of Mr. Clarke's friends in the room, the night prior to the last ballot. We then met and took the lists of both houses and checked them and compared, and from all information there were seventy-five members who would vote for Mr. Caldwell, and we consulted and concluded to go out and state on the street that there were seventy-five men who would vote for Mr. Caldwell the next day. That was the only concerted action at any time taken by the so-called “ committee.”

By Mr. CROZIER :

Q. At any time in that room, when these gentlemen you have mentioned were present, was there anything said by any one there about the use of money ?

A. I have no recollection of anything of the kind stated.

By Mr. CLARKE :

Q. Did any of those rumors you have spoken of penetrate into that particular room ?

A. They penetrated everywhere.

Q. Were you at one time a candidate for governor before the people of Kansas ?

A. I was.

Q. Of what party ?

A. The national union.

By Mr. CARPENTER:

Q. By what cord was that connected with the national parties? Was it the Johnson party?

A. That was the Johnson party.

By Mr. CLARKE:

Q. Were you postmaster at Leavenworth?

A. I was.

Q. Who appointed you—I mean under whose administration?

A. I believe it was under Mr. Johnson. It was either before the death of President Lincoln, or just after the accession of President Johnson. I am not certain which it was.

Q. Were you removed from that position?

A. I was either removed or resigned, I am not certain which.

Q. Could you not refresh your recollection, or not, whether it was a removal or resignation?

A. Very possibly it was a removal.

Q. Was it not a removal?

A. I am not certain.

Q. Quite an unimportant matter?

A. It is to me to-day.

Q. What was the salary of that office?

A. Three thousand or twenty-five hundred dollars. I am not certain which.

Q. Have you the same difficulties with your recollection in reference to your other testimony that you have as to whether you resigned or was removed from office?

A. I have no difficulty whatever.

Q. You do not remember?

A. I have never thought of it at all.

Q. Did you ever testify or take an oath before?

A. I have.

Q. Do you understand the responsibilities of an oath?

A. I do.

By the CHAIRMAN:

Q. Do you state now that you do not remember whether you were removed from or resigned the post-office?

A. I say I may have been removed; I am not certain about it. I rather think I was. I answered the question, when pressed, in the temper in which it was asked. It is a matter I had not thought of for years.

WASHINGTON, *January* 13, 1873.

JACOB SMITH sworn and examined.

By the CHAIRMAN:

Q. Where do you reside?

A. In Topeka, Kansas.

Q. What is your occupation, or what was it two years ago, at the time of this election which we are investigating?

A. Well, it was farming, merchandising, and banking.

Q. Were you present at Topeka when this election took place?

A. I was in the city.

Q. Were you taking an active part in the election?

A. No, sir.

Q. Which of the candidates were you supporting?

A. I hardly know which I was for.

Q. State what you know in regard to the use of money or corrupt means upon the part of Mr. Caldwell or his friends during that election.

A. I do not know anything about the means being used for it.

Q. Do you know anything about money being used?

A. I do not know of money. There was a check or two came through the bank.

Q. State what you know about that.

A. Well, I cashed a check for Mr. Crozier here for \$1,200.

Q. By whom was the check drawn?

A. I think it was by Mr. Crozier.

Q. Who received the money on it?

A. I think I paid it to him.

Q. It was drawn in his favor by whom?

A. Well, it was payable to my order, I think.

By Mr. CARPENTER:

Q. Who signed it?

A. Mr. Crozier signed it, I think. It was on the First National Bank of Leavenworth.

By Mr. HILL:

Q. Was there a deposit in the bank to his credit?

A. There may have been in a bank; there was not in ours.

By Mr. CARPENTER:

Q. It was not a check on your bank, but a draft on Leavenworth?

A. Yes, sir.

By Mr. TRUMBULL:

Q. It was payable to himself?

A. Yes, sir; to my order, I think.

By the CHAIRMAN:

Q. Judge Crozier got the money, did he?

A. Yes, sir.

Q. When was that?

A. I am not able to say what time that was. It was some time during the campaign.

Q. Was it before the senatorial election?

A. Yes, sir.

Q. How long before?

A. That I am not able to state.

Q. Was it several days?

A. That I do not know. It was two or three days before, perhaps.

Q. Was anything said at the time by Judge Crozier as to the use he wanted to make of the money there?

A. No, sir.

Q. What other checks, if any, were drawn upon your bank, or passed through it, and by whom?

A. There was a check for \$5,000, drawn by Dr. Morris, of Leavenworth.

Q. Who got the money on it?

A. He did.

Q. Upon whom was it drawn ?

A. It was drawn upon the First National Bank of Leavenworth, I think.

Q. Who is Dr. Morris ?

A. He is vice-president of the First National Bank, Leavenworth.

Q. Was he at Topeka ?

A. Yes, sir.

Q. Was he there during that election ?

A. Yes, sir; he was there part of the time.

Q. Was he taking part in it ?

A. I do not know; he was around there.

Q. Whose friend was he ?

A. That I do not know.

By Mr. TRUMBULL :

Q. Whose was he understood to be ?

A. Well, he was understood to be Mr. Caldwell's, like the rest. They were all there together, pretty much, at the Tefft House, except Mr. Ross. I think he was at another hotel.

By Mr. CARPENTER :

Q. Where was Clarke's headquarters ?

A. He was at the Tefft House.

Q. Both at the Tefft House ?

A. Yes, sir.

Q. Where was Carney's headquarters ?

A. I think he stopped at the Tefft House.

By the CHAIRMAN :

Q. Was anything said at the time as to what use was to be made of this money ?

A. No, sir.

Q. At what time was that check drawn—before or after the senatorial election ?

A. It was before.

Q. How long ?

A. The evening, or a day or so before.

By Mr. HILL :

Q. Was it in the daytime or in the night that the money was drawn ?

A. It was at night the money was drawn.

Q. Was it after banking hours ?

A. Yes, sir.

Q. At what hour of the night ?

A. I think it was about 9 o'clock.

Q. Was any reason given why it was wanted at that particular hour ?

A. No, sir; not to me.

By Mr. CARPENTER :

Q. Was that the same evening on which the election took place ?

A. No, sir.

Q. You think it was the evening before ?

A. Yes, sir, if I mistake not. I think it was the evening of the 23d.

Q. Did the election take place on the 24th ?

A. Yes, sir.

By the CHAIRMAN :

- Q. What is the name and title of your bank ?
A. The Topeka Bank and Savings Institution.
Q. Is it a national bank ?
A. No, sir.
Q. Had Len. Smith any deposits in your bank ?
A. No, sir.
Q. Did he do any business through it ?
A. I think one check of his went through our bank.
Q. For how much ?
A. I think either a hundred or a hundred and fifty dollars.
Q. Did Governor Carney do any business through your bank during that period ?
A. I think he did.
Q. What was it ?
A. Well, from one to two hundred dollars, I think.
Q. Were there other banks in Topeka ?
A. Yes, sir.
Q. What were their names ?
A. There was the Kansas Valley National, and Giles & Jewell.
Q. Were they private bankers ?
A. Yes, sir. The Kansas Valley National was a national bank.
Q. Was that the only one ?
A. Yes, sir ; the only one at that time.
Q. You say this money was obtained by Dr. Morris after night ?
A. Yes, sir.
Q. Where were you at the time the check was presented ?
A. I think I was at the Tefft House.
Q. Did Dr. Morris meet you there ?
A. Yes, sir.
Q. Did he ask you to go up to the bank and cash the money for him ?
A. Yes, sir.
Q. Did he give any reason why he wanted the money at that hour ?
A. No, sir.
Q. You went up and got the money for him ?
A. Yes, sir.
Q. Was he there the next day during the election ?
A. I do not remember whether he was there the next day or not. I think, however, he was.
Q. You think he was there the next day ?
A. Yes, sir ; but I do not remember it.
Q. Did he give you any explanation of why he wanted the money that night, or any reason why he did not draw during banking hours, or why he could not wait until the next day ?
A. No, sir ; he asked me if I would not cash his check on Leavenworth. I said I could, and walked down to the bank and had our cashier to open the vault and get the money out.

By Mr. CARPENTER :

- Q. Did he go to the bank with you ?
A. Yes, sir.
Q. Was there no conversation about the money on the way down ?
A. No, sir.
Q. Or about the check ?
A. No, sir.
Q. Or at the bank ?

A. No, sir.

By the CHAIRMAN :

Q. Was there any refusal upon your part to cash the drafts of Len. Smith ?

A. Well, on Sunday I was there calling on the boys, as we call them.

Q. At the Tefft House ?

A. Yes, sir.

Q. Do you mean the Leavenworth boys ?

A. Yes, sir ; Leavenworth boys, Clarke boys, and all the other boys.

By Mr. CARPENTER :

Q. You, being a banker, were on good terms with all of them ?

A. Yes, sir.

By Mr. HILL :

Q. And they wanted to be on good terms with you ?

A. Yes, sir.

By the CHAIRMAN :

Q. What occurred between you and Mr. Smith, if anything ?

A. We got in conversation, and he asked me if I would not cash his check. I told him I would not. That was on Sunday.

Q. What was the amount of the check he wanted you to cash ?

A. I do not know.

Q. He did not say what was the amount ?

A. No, sir.

Q. Did he tell you what it was for ?

A. No, sir.

By Mr. CARPENTER :

Q. Did he tell you why it was wanted on Sunday ?

A. He did not say about that.

By the CHAIRMAN :

Q. Did he ask for it on Sunday, or did he ask in reference to cashing checks at any time ?

A. I did not understand it in that way. I was joking him, and he was joking me.

Q. You say you refused to do it ?

A. Yes, sir.

By Mr. CARPENTER :

Q. Did you understand his proposition, as made to you at the time, as a joke or a matter of business ?

A. He and I were joking together all the time.

Q. How did you understand that proposition to cash his check ? Did you understand that that was a joke ?

A. I did not know what he meant.

Q. Was he not a man whose check you would cash ordinarily ?

A. Yes, sir.

Q. Why did you not cash that one, then ?

A. I would have cashed it on Monday.

By the CHAIRMAN :

Q. What kind of a joke would there be in asking you to cash a check on Sunday ? How would that be funny ?

A. I do not know.

By Mr. HILL :

Q. Are you right sure it was on Sunday ?

A. I think it was—the same day we were talking.

By Mr. CARPENTER :

Q. What day of the month was this Sunday ?

A. I do not remember.

Q. How long before the election ?

A. I do not remember.

By the CHAIRMAN :

Q. What reason did you give to Mr. Smith for refusing to cash his check on Sunday ?

A. Well, I think I said he ought not to be giving his checks out here; that the honest yeomanry of the country might get after him, or something to that effect.

Q. That "he ought not to be giving his checks out here; that the honest yeomanry of the country would get after him?"

A. Yes, sir.

Q. Did you make that remark with the understanding that that check was to be used in the election ?

A. I did not know whether he wanted to use it in that election or not.

Q. What would the honest yeomanry have to do with it ?

A. Well, I thought I would guard him a little.

Q. What did he say in reply to that remark ?

A. I do not remember what he said.

Q. Was your refusal based on the ground that you did not want to be connected with any such transaction ?

A. I did not want to be connected with the election in any way. I did not seek anything of that kind. That is not my business. Politics is not my business.

Q. You say he did not state the amount of the check he wanted you to cash ?

A. No, sir; he did not.

Q. Did you understand that it was a considerable amount ?

A. No, sir; I do not know whether it was a large amount or a small amount.

Q. Did he ask you more than once to do it ?

A. No, sir.

Q. Did he tell you where he could get it done ?

A. No, sir.

Q. Or suggest where he could ?

A. No, sir.

By Mr. CARPENTER

Q. If he had come to your bank and asked you to do it, would you have done it ?

A. Yes, sir; if for any reasonable amount.

Q. Was Governor Carney there on that day ?

A. I do not remember. I think not. If he was, I did not call at his room.

By the CHAIRMAN :

Q. What do you know about any other checks or money transactions about that time ?

A. I know of no other.

By Mr. CARPENTER :

Q. Was there any check, draft, or other commercial paper passed through your bank about the time of that election which you had any suspicion at the time had any connection with the election, or was used in connection with the election ?

A. No, sir ; not to my knowledge.

Q. Who is this Mr. Morris you speak of ?

A. He is vice-president of the First National Bank at Leavenworth.

Q. Is he here in Washington ?

A. I have not seen him.

By Mr. HILL :

Q. Did you not state, on a former occasion, when you gave evidence, that you supposed that Mr. Len. Smith wanted two or three thousand dollars from your bank ?

A. I did not know how much ; it might be two or three thousand dollars.

Q. Why did you infer that sum or one of those sums more than any other ? What led you to the supposition ?

A. Well, it might have been that much, or as much as \$100.

Q. Did you not say on a former occasion that you surmised that it was in connection with the pending election of United States Senator that the money was wanted ?

A. I did not know but what he wanted some for that purpose. He did not say to me, however, that he wanted it for that.

Q. Did you not give as a reason that that was why you would not have anything to do with cashing his check ?

A. That was one reason that I did not want to be mixed up in it.

Q. Why would you have done it on Monday, if not on Sunday, if that was the reason for declining ?

A. Monday, in business hours, I would have done it.

Q. But that would not have removed the reason you just assigned ?

A. If a man came in and wanted to draw on Leavenworth it would have been an ordinary thing.

Q. You gave the reason before that you did not cash his check because you surmised it had some connection with the election. Now I ask why you surmised that ? Did you suppose every check presented at your bank at that time had something to do with the senatorial election ?

A. No, sir.

By the CHAIRMAN :

Q. I will ask you, for the purpose of refreshing your memory, whether when Len. Smith asked you to cash a check on Sunday you did not tell him that you would rather he would get somebody else to do it ?

A. I think I did.

Q. Did you further tell him that you thought it was not prudent for him to use his checks in that way, and did you not state that on a former occasion in testimony ?

A. I think so.

Q. Did you not further testify, and perhaps your recollection was better then than it is now, that he wanted at that time two or three thousand dollars ?

A. He did not state to me how much he wanted.

Q. Did you not use the language, "I think he wanted at the time two or three thousand dollars?"

A. I think that committee asked me how much, and I told them I

did not know, "perhaps two or three thousand dollars, but I did not know;" just in that way.

Q. Did you get the impression, from something he said, that that was what he wanted?

A. No, sir.

By Mr. HILL:

Q. Was it a mere guess?

A. Mere guess.

By Mr. CARPENTER:

Q. Is Len. T. Smith a man who handles money and whose checks are good?

A. Yes, sir.

Q. Who would not be likely to draw a check for a hundred or two hundred dollars?

A. Well, he has drawn for a hundred or two?

Q. I suggest whether that was not one of the reasons that led you to suppose that if he wanted the transaction done on Sunday he wanted a considerable amount. Let me ask you another question: When he asked you to cash a draft, did you suppose or believe that the money was to be used in that election?

A. Well, I did not know really what he did want.

Q. What did you guess about it? Are you a Yankee?

A. I am not much on guessing.

Q. What did you guess at that time? What did you believe? What did you understand?

A. Well, my understanding was, I did not want to have anything to do with it.

Q. If you had been going to bet ten cents on whether he wanted it for that purpose or not, which way would you have bet?

A. Well, I might have bet wrong.

Q. I do not ask you whether you would have won or lost, but how would you have bet at the time?

A. I do not know how to answer that.

Q. Let the bet go. Did you at that time believe that he wanted that money to use in this election?

A. Well, no, to come right down to the facts of it—

Q. The facts are all we are after.

A. For I had no reason to make up my mind to anything like that.

Q. Do you not frequently suspect things very strongly that you could not swear to?

A. Yes, sir; I do.

Q. Did you not then?

A. I had my suspicions.

Q. What were they?

A. I thought he might want to use some money in that way.

Q. You wanted to keep him out of temptation?

A. Yes, sir.

By Mr. TRUMBULL:

Q. From the general report at Topeka, was not the impression made on your mind that money was being used in the election, and therefore you did not want your house mixed up in it?

A. Well, it prevailed before that.

Q. Did it not prevail at that time? Did you not have a general feel-

ing that if these gentlemen wanted money they should get it somewhere else than through you?

A. It did at the other election, of Ross and the others.

Q. But at this time, was it not the prevailing feeling with you that you did not want them to get their money through you; that you did not want to be mixed up in it one way or the other?

A. I did not want to be mixed up in it.

Q. Did you not have the apprehension that this money would be used in such a way as to implicate your bank with it as furnishing the money?

A. Yes, sir.

Q. Then it was an apprehension that it was going to be improperly used that made you prefer that these negotiations should be made through another bank?

A. Yes, sir. I did not want to be mixed up.

Q. If you had had no thought but that it was to be used in legitimate transactions in the trade and commerce of the country you would have had no objection?

A. No, sir.

By the CHAIRMAN:

Q. Would it have been any more trouble to get a check cashed on Sunday than to come down at night for Dr. Morris and cash his check on another day?

A. Yes; sir. I could not get in myself, and I would have had to hunt up our cashier, and he belongs to the church, and it was Sunday.

Q. At night did you not have to hunt him up?

A. Yes, sir; but he was around then. I think he was in the office at the time.

By Mr. CARPENTER:

Q. The banking office?

A. No, sir; the hotel office.

By Mr. CROZIER:

Q. Who was present when you and Len. Smith had that conversation in the Tefft House?

A. I do not remember. I think he and I were together.

Q. In other words, was it a conversation among friends, a number being present, or was it a private conversation with Mr. Smith?

A. I think it was a conversation with some others.

Q. Do you think some others were present?

A. I think there were others in the room.

Q. Were they within hearing?

A. I do not remember.

Q. Had there been rumors, and were they afloat then, of money having been used in previous elections?

A. Yes, sir.

Q. Was it in reference to those rumors and what might be rumored after this election that you did not want to be mixed up in this business?

A. It was in reference to the other prior elections that I did not want to be mixed up in it.

Q. In reference to the rumors in the preceding senatorial elections?

A. Yes, sir.

Q. You did cash Mr. Len. Smith's check?

A. Yes, sir; it went through the bank.

Q. Would you have hesitated to have cashed Mr. Len. Smith's check, if coming in the regular way, for even \$3,000?

A. No, sir.

Q. Would you have considered it good for that amount?

A. Yes, sir.

Q. You spoke of having cashed a check of mine?

A. Yes, sir.

Q. Was it not my individual check on the First National of Leavenworth?

A. Yes, sir.

Q. Did not that transaction take place on the afternoon succeeding the senatorial election?

A. I do not remember.

Q. Do you recollect where I first met you in regard to it?

A. No, sir.

Q. Do you know when the Leavenworth party left Topeka for home?

A. I think part of them went the same day that the election took place—I am not certain—or the day after.

Q. Did not most of them go the next morning?

A. I think so.

Q. Did you have any conversation with Mr. Caldwell on the subject of the election, and the use of money in it, and cashing checks, &c.?

A. No, sir.

By Mr. CALDWELL:

Q. Did I ever ask you or have any conversation with you in regard to it at all?

A. In regard to money?

Q. Yes; in regard to money.

A. No, sir; not at all.

By Mr. CLARKE:

Q. What are your politics?

A. My politics?

Q. Are you a democrat or a republican?

A. Well, I was Greeley.

By Mr. TRUMBULL:

Q. Were you for Greeley at the time of that election?

A. No, sir; I do not know what I was. As a general thing, I am in the minority. I once bet my money on our friend here from Indiana, (Mr. Morton,) and lost.

The CHAIRMAN: That must have been in '56.

WASHINGTON, D. C., *January 13, 1873.*

DANIEL R. ANTHONY sworn and examined.

By the CHAIRMAN:

Question. Colonel Anthony, were you at Topeka during this senatorial election that we are talking about?

Answer. I was.

Q. Where do you reside?

A. I reside in Leavenworth.

Q. Are you living in Leavenworth now?

A. Yes, sir.

Q. Are you the mayor of the city of Leavenworth?

A. Yes, sir.

Q. State whether you were present at Topeka during this election.

A. Yes, sir.

Q. Were you a member of the legislature?

A. I was not.

Q. For what purpose were you there, if any?

A. I was there more in the interest of Mr. Walker than any other one man.

Q. For his election to the Senate?

A. Yes, sir; I was opposed to the election of Mr. Caldwell and opposed to the election of Mr. Carney.

Q. State what you know, if anything, in regard to the use of money or other improper means by Mr. Caldwell, or any of his friends, to procure votes to secure his election.

A. I know nothing personally of the use of a single dollar. I saw no money paid. All I know is from statements made to me by other parties.

Q. Did you have any conversation with Mr. Caldwell on the subject?

A. I did.

Q. When was that conversation?

A. I had a conversation with him, in his room at Topeka, twice, and once on the cars coming from Topeka.

By Mr. CARPENTER:

Q. Before the election, or after?

A. Before the election; and I have had conversations with him since on that subject.

By the CHAIRMAN:

Q. Did you ever have any conversation with Mr. Caldwell in regard to what that election had cost him, or anything on that subject?

A. He remarked to me, incidentally, I think last summer, in regard to the cost of the election.

Q. What did he say about it?

A. He said to me that it had cost him about \$60,000.

Q. Where was that statement made to you?

A. That statement was made to me when he was conversing with me about my purchasing the Bulletin office, in Leavenworth.

By Mr. CARPENTER:

Q. Is that a newspaper?

A. Yes, sir; I went to him to purchase the notes that he held against Mr. Burke, the proprietor of the Bulletin. I was trying to wipe out the Bulletin, or secure it, and get it out of the way. I am the owner of the Leavenworth Times. In that conversation he declined to give me notes, but was in favor of the consolidation, he said.

Q. In favor of consolidating the two newspapers?

A. Yes, sir; and incidentally he said that he did not intend to collect these notes against Mr. Burke, as he had rendered him great service in his election; that he had paid him about \$6,000—that is, to Mr. Burke, and that the election had cost him about \$60,000.

Q. These notes, then, were for \$6,000 of it?

A. Yes, sir.

Q. When had he paid Mr. Burke that money?

A. He told me he had paid it during the pendency of the railroad troubles, or \$2,000 of it; he did not tell me the whole of that, but during that fall and winter I saw the notes myself, and I know that he paid it.

Q. When were the notes given, before or after the senatorial election?

A. They were all given before that, except one; one was given a few days after the election.

Q. For how much?

A. The first note was made in the fall; it was for about \$2,000. That was in October.

By Mr. HILL:

Q. In the October previous to the election?

A. In October, 1870. A few days after, a note was given for \$1,500.

By the CHAIRMAN:

Q. That makes \$3,500?

A. Yes, sir. Then I think about January 4, after the other note was protested, there was another thousand-dollar note given, and I think about the middle of February another note of \$1,500 was given.

Q. For what had this money been advanced to Mr. Burke?

A. Mr. Caldwell said he had advanced it to him to aid him in the newspaper. Mr. Burke for some thirty days had published two editions per day, advocating the claims of Mr. Caldwell.

Q. Was this money to pay him for advocating the claims of Mr. Caldwell? Did you understand that?

A. I did.

Q. And when you applied to him for the notes what did he say?

A. He said he did not expect to collect them.

Q. For what reason were the notes taken? If the money was given for this service, why should he have taken notes?

A. I do not know anything about that, more than the statement of Mr. Burke in regard to it.

Q. What did Mr. Burke say?

A. He said they were taken so as not to have the appearance of subsidizing the press.

Q. When Mr. Caldwell said that, including these notes, the election had cost him \$60,000, did he make any explanation to you of how the other \$54,000 had been expended?

A. He did not name the exact sum as \$60,000. He said about \$60,000.

Q. Did he give you any explanation of how the expenditure of the remainder came about?

A. No, sir, not specially; only as to one man. I remarked to him that I had been the means of making one man cost him more than he otherwise would.

By Mr. CARPENTER:

Q. That you had done it yourself?

A. Yes, sir.

By the CHAIRMAN:

Q. How was that?

A. That was the case of Mr. Bayers. He came to me and said that

he, Bayers, was offered \$3,000 for either his vote alone, or his and others, I do not recollect which.

Q. Who is Bayers?

A. He was a member of the legislature from Ellsworth.

Q. A member of the house or senate?

A. A member of the house.

Q. What was his reply.

A. His reply was that it had not cost him any more; that he had not paid Bayers any more than he first agreed to.

Q. Three thousand dollars?

A. Yes, sir; three thousand dollars.

By Mr. CARPENTER:

Q. Was that Mr. Caldwell's reply to you, that that man's vote had not cost him more than he had previously agreed to pay him?

A. Yes, sir; Bayers had come to me and said that he was offered \$3,000. I told him that he was a fool to take that if he could get more money. Bayers afterward came to me and told me that he got \$5,000.

Q. What did Mr. Caldwell say about it?

A. Mr. Caldwell said, in answer to my remark, that it had cost him no more money; that my argument or my advice to Bayers had not been the means of it costing him more than the \$3,000?

By Mr. TRUMBULL:

Q. The reason you asked him was because Bayers had told you that he had actually got \$5,000?

A. Yes, sir.

Q. And you told that to Mr. Caldwell, and then Mr. Caldwell made this answer to you?

A. Yes, sir.

By Mr. LOGAN:

Q. Did Mr. Caldwell say that he had originally agreed to pay that much?

A. Yes, sir; the answer was that my argument to Bayers had not affected the price of Bayers's vote, and that it had not cost him any more money.

Q. What did he say the price was?

A. He stated the price to be \$3,000.

Q. What reply did Mr. Caldwell make to that?

A. Mr. Caldwell stated that I had not been the means of making him pay any more; that he only paid him that amount.

By Mr. CARPENTER:

Q. Did Mr. Caldwell say that your talk with Bayers had not made his election cost him any more, or Bayers's vote cost him any more?

A. That it had not made Bayers's vote cost him any more.

By the CHAIRMAN:

Did you have any other conversation with Mr. Caldwell at any other time?

A. Only at Topeka; I had conversations with him there.

Q. During the pendency of the election?

A. Yes, sir.

Q. What was that conversation?

A. Mr. Jennison came to me when I was in front of the Tefft House and said he wanted me to go and see Len. Smith and Caldwell; he

wanted me to support Caldwell. I went with him to Mr. Fenlon's room; he and Smith were there at that house. I do not know now whether Fenlon was there; he took me then to Smith's room, or rather to the bedroom adjoining Fenlon's room. There was very little conversation with Smith; it amounted to nothing, but he wanted me to see Mr. Caldwell, and I went to see Mr. Caldwell.

Q. Why did he want you to see Mr. Caldwell?

A. He wanted me to work for Mr. Caldwell.

Q. For any consideration or anything of the kind?

A. There was nothing said by Mr. Smith of any consequence. I wanted to hear what he had to say.

By Mr. CARPENTER:

Q. Did you see Mr. Caldwell at that time?

A. Yes, sir.

By the CHAIRMAN:

Q. What took place?

A. The most of it was that Mr. Caldwell thought I had better stop fighting him, and that by our joining together with him we could all help build up Leavenworth; and I gave him my reasons for not supporting him. He said that I wanted position, and that he would be in a situation where he could aid me, if elected. He named positions that he could give me if he was elected. I asked him to name them, and he named several; he named the governorships of Washington Territory and of New Mexico, and other positions. I said to him that I thought it would be very difficult for him to give me Washington Territory; that he had already promised that to Legate, and if he did not give it to Legate he would have to give it to Mr. Kalloch; and I did not think these promises amounted to anything. That was the substance of the conversation.

Q. What else was said? Was there anything said about compensating you in any other way?

A. I told him such compensation was worth nothing to me because I did not think he would have the power to fulfill his promises, and I did not think it would place me in a right position before my people at home. Perhaps it would be well to state the condition of affairs in Leavenworth, inasmuch as Mr. Smith has told something about that. I will state that for ten years in Leavenworth there have been two parties in bitter opposition to each other; that one party has expended during the ten years not only tens of thousands, but probably one or two hundred thousand dollars, of money in electioneering purposes.

Q. Were those parties inside of the republican party?

A. No, sir.

Q. Or independent of the two great parties?

A. The republican party, in every convention that we have had in Leavenworth, has always been friendly to myself. I may state that I have been the standing candidate for mayor for eight years; have been run six times and was elected the first and last times. But inside of the republican party there are certain men, Mr. Carney was formerly among the number, I do not know but he is now, and Mr. Caldwell, in connection with Mr. Smith, who would bolt the regular nominations and co-operate with the democratic party, in order to beat the republican nomination, not for any political reason, but on account of the railroad policy. Mr. Carney and Mr. Caldwell had succeeded in getting \$500,000 of bonds for building nineteen miles of railroad, and they came here and got a hundred and three thousand acres of the Delaware reserved lands, reserved by a treaty with the Indians. These lands were

got for the benefit of the city and county of Leavenworth, that owned stock in the road. Afterward the lands were patented to Len. T. Smith and by him divided among the directors of the railroad, so that the city and county never received any benefit from them. That is the basis of all the troubles.

Q. Were those \$500,000 of bonds issued by the county?

A. Yes, sir; city and county.

Q. Who got them?

A. Mr. Len. Smith and Mr. Caldwell and Company got \$500,000 bonds, and a hundred and three thousand acres that at the time were worth a million and a half of dollars, for building nineteen miles of railroad.

Q. Was that land given by the Government for the road?

A. It was land reserved by a treaty with the Indians—what is known as the "Delaware reserved lands." They consisted of the finest lands in the county.

Q. That is a large part of the county, is it not?

A. Yes, sir; I do not know that they are all in the county.

Q. Now, how does that come in here as an explanation of this matter?

A. After that, we were making endeavors to prosecute the road; they had mortgaged it for five or seven hundred thousand dollars. Our party was in favor of the city prosecuting the road and getting possession of these lands. While that question was pending, they made a proposition to extend the road to Atchison, and, as a consideration, demanded \$500,000 of stock which the city and county held. They carried that by a vote; got the stock voted to build twenty-five miles further of road. They were also to build certain depots and to straighten the levee, and to make Leavenworth the terminus of the road, and build certain round-houses and a machine-shop, which they refused to do, or neglected to do. I went into the city council; I got elected on purpose to try to protect the rights of the city in that respect. We saw no other way but to pass an ordinance—which we did—that ordinance declaring—

The CHAIRMAN. I do not suppose that is material.

The WITNESS. The point is the tearing up of the track, which Mr. Smith has referred to in his testimony.

Mr. TRUMBULL. It will take but a minute; he might as well go on.

THE WITNESS. We passed that ordinance and tore up the track to get our rights, and this railroad party then, according to the statement of a director of the road, paid some \$11,800, to be paid the city council, to be released from its obligations. We got a decision by Judge Dillon that we were entirely right. That was the basis of the fight. There was a meeting held about thirty days preceding the senatorial election. There was, then, intense feeling against Mr. Caldwell on the ground that he and his friends were buying up the city council. That was the basis of my feeling also.

By the CHAIRMAN:

Q. How long was this before the election?

A. The meeting and the tearing up of the track occurred about thirty days before that. The feeling in Leavenworth was very bitter against Mr. Caldwell.

Q. By the majority of the people?

A. By a large majority of the people.

Q. Did you learn anything in regard to the use of money in this election from Mr. Len. T. Smith at Topeka?

A. Nothing; only in a general way.

Q. From Len. T. Smith?

A. I do not remember any.

Q. Or from George Smith?

A. No, sir; I do not remember it.

Q. Or from Mr. Tom Anderson?

A. I learned from him, afterward, a full statement of the matter.

Q. How long afterward?

A. During the contest at Topeka and the examination of the witnesses before the joint committee of the legislature. He came into my office and told me the reasons why he had left Topeka.

Q. State what Mr. Anderson said to you.

A. Mr. Anderson came into the Times Office at Leavenworth while that investigating committee was in session at Topeka, and sat down and told me the reasons why he was in Leavenworth. He said he came down and brought a letter from James F. Legate to Levi Wilson; that he did not know what was in the letter, but delivered it to Levi Wilson, as a friend of Mr. Caldwell; that his object was to get pay on a \$3,500 note which was in the bank at Topeka; that they had got to pay that, or he would go before the committee and tell all that he knew; and if they did pay it, he would go there and tell all that he knew. He then went on to state what he did know; that he was their principal agent there, and that he had agreed for the sum of \$5,000 to work for them; that they had paid him \$1,500, and this \$3,500 was to be paid by Mr. Caldwell, and now they were about to go back on him; that he had bought a house, and if they did not pay this note he would be ruined; that they had got to pay that, for he knew nearly every man that had been bought; and he spoke of paying a thousand dollars to a Mr. Carson or a Mr. Crocker for his, Crocker's, vote through Carson.

By Mr. CARPENTER:

Q. Said he had paid it to whom?

A. To Carson.

Q. Was Carson a member?

A. No; Crocker was the member. The language he used was, Carson was a "God damned thief;" that Crocker did not take the money, but Carson had not returned it. After talking and telling me this, he went down to the Chicago and Rock Island Railroad office and secured a pass from Council Bluffs to Chicago, and went over to the other office and secured a pass to Council Bluffs. He said he was going to meet them at some time before 4 o'clock.

By the CHAIRMAN:

Q. To meet whom?

A. To meet Wilson, and that if Wilson did not come he would take the cars for Topeka; if he did, he should go to Chicago. I saw him in the presence of others a few minutes before 4 o'clock. I asked if he had got it fixed; he said he had, and it was all right. I know nothing more of him, except that he took the train for Council Bluffs. Afterward, when I saw him, he said he had taken the train for Council Bluffs, but returned and went to Topeka Saturday, staid there Sunday, and took the Sunday night train back to Kansas City. I asked what he meant by saying it was all right. He said Lucian Scott had agreed to telegraph to Mr. Caldwell whether he should pay the \$3,500 or not, and that they were going to recommend him to pay it; that he had telegraphed, but that they had not paid it. This was some days after this very conversation which I have related. He said that they had not then paid it, but that it would be paid in a few days. At a subsequent time he told me that Mr. Caldwell had paid the \$3,500.

By Mr. TRUMBULL :

Q. Did he tell you why he was escaping from the city ?

A. To secure his \$3,500.

Q. Had he been summoned ?

A. Yes, sir. He was going away to avoid testifying, because, if he testified, he would never get his \$3,500.

Q. Did you understand that he had been summoned ?

A. I do not remember whether he had been summoned or not. He knew there was a subpoena out for him.

Q. Did he tell you he was keeping out of the way ?

A. He did.

By Mr. CARPENTER :

Q. Was he summoned after that by that committee ?

A. No, sir.

By the CHAIRMAN :

Q. What do you know about Len. T. Smith leaving the city to avoid an examination ?

A. I do not know anything about his leaving except general rumor.

Q. Was he away at the time ?

A. He was away ; that is, it is so reported.

Q. Was he one of the recusant witnesses reported by the legislature ?

A. Yes, sir.

Q. Was what you have stated all the conversation you had with Mr. Anderson on that subject ?

A. It is. I had another conversation with him. He said that when they promised to pay, they had to do it, and he used some violent language toward Mr. Caldwell—very violent, as much as to threaten his life if he did not pay it.

Q. The \$3,500 ?

A. Yes, sir.

Q. When did he tell you he paid it, and where was that ?

A. The investigation was a year ago. It was the spring following, a month or two after the investigation. It was last spring.

Q. Did you have any conversation with Mr. McDowell ?

A. I did.

Q. Where was that ?

A. At Topeka, I think.

Q. Was that during the election ?

A. It was during the investigation, and probably I had some during the election.

Q. What did Mr. McDowell tell you ?

A. I had little or no conversation with him. I had some about my testimony before the committee. My judgment was that the committee there was a farce, and was intended for that. Indeed, Mr. Anderson told me after I had testified that they had made an arrangement with Mr. Snoddy to complicate the matter so as to bring in other parties ; that they had made an arrangement with him by paying him money.

Q. What other parties ?

A. They were to bring Pomeroy in, and go back into the old election.

Q. Who was Snoddy ?

A. The chairman of the investigating committee.

Q. He said they had paid Snoddy money to bring in Pomeroy ?

A. Yes, sir.

Q. Did he tell you how much ?

A. No, sir; the money, Anderson told me, was not paid to Snoddy, but paid to Jennison to give to Snoddy.

Q. Upon whose part was that money paid?

A. I do not know as he told me, but he had acted as the agent; he himself had been to Snoddy to get him to ring in these other men.

Q. Was that for the purpose of relieving, in some way, the investigation against Mr. Caldwell?

A. That is what he said, and that Mr. Snoddy had refused to entertain anything of the kind, and said that he had made such a bitter fight against Caldwell that he could not change, and he had no success in talking with him, but he afterward went to Jennison and made the arrangement there.

Q. Who is Jennison?

A. He was a member of the legislature; he was in Topeka.

Q. Was he on the committee?

A. No, sir; he was a member of the Senate.

Q. Did he tell you that Jennison had completed the arrangement with Snoddy?

A. Yes, sir; he did.

Q. Who is Jennison?

A. Mr. Jennison is a gambler there in Leavenworth.

Q. Did Mr. Anderson say anything further about the matter?

A. That is all I recollect now.

By Mr. CARPENTER:

Q. Where is Mr. Snoddy?

A. He is in Linn County, Kansas.

Q. What is he?

A. He is a lawyer. A day or two before I came here, a gentleman, who was present during that conversation with Anderson, reminded me of it.

By the CHAIRMAN:

Q. What is his name?

A. Stillwell.

By Mr. CARPENTER:

Q. What sort of a man is he?

A. A fair sort of a man.

Q. What is his business?

A. A bill-poster.

Q. A gentleman connected with the press?

A. Yes, sir.

By the CHAIRMAN:

Q. You say he heard the conversation? How?

A. He said he had heard part of it. I was detailing it, and he came up and said that he was sitting in my editorial room and heard the whole conversation. My editorial room is in the back part of the office, and the stove was so placed as to warm both rooms, and Anderson and I sat close by the stove, as he had just come in and was cold, and Mr. Stillwell told me that he was sitting in my office, with a partition between, and that he heard most of the conversation; that he heard all about the \$3,500, which was the most he heard.

By Mr. CROZIER:

Q. Do you know Mr. Stillwell?

A. Yes, sir.

Q. Was he not indicted at one time there and convicted within the last year in Leavenworth for subornation of perjury in relation to a loss by fire?

A. Not to my knowledge.

Q. Was he not charged with it?

A. Yes, sir.

Q. What became of that charge?

A. I do not think anything was ever done with it.

Q. Mr. Anthony, at the time you refer to of the tearing up of the railroad-track, were you on good terms with Mr. Caldwell and Mr. Smith personally?

A. I have been personally on good terms with them all my life.

Q. Are you now?

A. I am; because I never had a word of difficulty with them.

Q. How long since you have had control of the Times?

A. Since a year ago last May.

Q. What interest had you at the time of these railroad difficulties before that?

A. None.

Q. Since you have had control of the Times has it not been exceedingly hostile to Mr. Smith and Mr. Caldwell about railroad matters?

A. There has never been but one editorial article hostile to Mr. Caldwell in that paper, and that was on the result of the trial between himself and Mr. Burke.

By the CHAIRMAN:

Q. What was that trial about?

A. Those \$4,000.

Q. Did Mr. Caldwell sue him on those notes?

A. Yes, sir.

Q. Was there a defense made?

A. Yes, sir.

Q. What was the defense?

A. That it was given for the services of his paper.

Q. What was the judgment?

A. The judgment the first time was in favor of Mr. Burke, the second time in favor of Mr. Caldwell.

By Mr. CARPENTER:

Q. Then there was a defense to the notes?

A. Yes, sir.

Q. Was it on the ground that they were given for corrupting the press?

A. That they were given for the services of the paper.

Q. What services?

A. Printing editorials for Mr. Caldwell and publishing extra editions of his paper.

Q. Did the court hold that that was not a good consideration?

A. They did hold it, and he was beaten.

Q. I thought you said the defense succeeded?

A. No, sir. On the second trial they only sued on the first \$2,000; the last was omitted. The first note was given for the use of the railroad. Mr. Caldwell succeeded in the last trial, and an appeal was taken to the Supreme Court.

By the CHAIRMAN:

Q. How on the first trial?

A. I am not lawyer enough to explain it; but they sued first on the \$2,000, and an answer was put in, and in answer to that they brought in the \$4,000, and got beaten on the whole and moved for a new trial, and on the ground of Mr. Burke publishing these editorials—Mr. Burke is editing my paper, and before the decision he published an article reflecting severely on Mr. Caldwell; for that reason—the court granted a new trial, and Mr. Caldwell sued on the \$2,000, omitting the \$4,000, and got judgment, I think. There is an appeal from that, or a motion for a new trial.

Q. You say Mr. Caldwell withdrew the \$4,000 note?

A. Yes, sir.

By Mr. CROZIER:

Q. Was not that suit originally instituted on the note for \$2,000 on the part of Mr. Smith and Mr. Caldwell both?

A. It was.

Q. Were Mr. Smith and Mr. Caldwell there on the first trial?

A. They were not; their depositions were there.

Q. Was not judgment finally rendered in the case upon the second trial for \$2,000, and interest on it?

A. That was all.

Q. Then there was nothing else in the controversy, so far as these men were concerned?

A. The \$4,000 was in it.

Q. Were they seeking to recover \$4,000?

A. They did on the first trial.

Q. Was not the suit for \$2,000 only?

A. Yes, sir; you were a witness, you know the suit was about the \$4,000.

Mr. CROZIER. I know nothing of the sort, but I am not a witness now.

By Mr. CROZIER:

Q. When was that \$2,000 note given?

A. I think in September or October preceding the election of a United States Senator.

Q. September, 1870?

A. I think so.

Q. Who was conducting the Conservative—I think it was called the Conservative or Times?

A. The Times.

Q. Who was conducting it?

A. Mr. Sleeper and Hovey Lowman.

Q. What was the attitude of that paper toward Mr. Caldwell's election?

A. Hostile.

Q. Exceedingly hostile?

A. I think so.

Q. Was there any other republican English paper in the city except the Bulletin?

A. Yes, sir.

Q. What was it?

A. There were three others, I think—two German and one English.

Q. What English paper?

A. The Call.

Q. Whom did that support for the Senate?

A. I think that did not take any particular part until toward the last, and then supported Mr. Caldwell.

Q. Whom did the Bulletin support ?

A. Mr. Caldwell.

Q. What was its financial condition during the fall of 1870 ?

A. Bankrupt.

Q. Were not these sums furnished to Mr. Burke to sustain his paper ?

A. I do not know ; I suppose they were.

Q. Do you know what security was taken for the sums advanced to Mr. Burke ?

A. Yes, sir.

Q. What ?

A. On the first \$2,000 Mr. Caldwell had a mortgage, or undivided one-half of the Bulletin office.

Q. Was that the one sued on ?

A. Yes, sir. On the other one, the \$1,500, he had a mortgage on 20 acres of land in Council Bluffs. That I have seen ; that is worth about \$200. And upon the other two notes he has no security.

Q. Do you know who negotiated the loan of \$2,000 of Burke ?

A. I understood from your testimony that you did.

Q. Did not your paper, from the time you had control of it, occupy a very hostile attitude toward Mr. Smith and Mr. Caldwell concerning their railroad business, and from the time Mr. Caldwell was mentioned for the Senate, was it not against him as a candidate ?

A. I did not own the paper then.

Q. I say from the time you got control of it until the election.

A. I did not get control of it until after he was elected. I got control of it the 5th of May, and then Mr. McDowell and McKee came down there and tried to take it away from me forcibly.

Q. I did not ask for that.

A. Let me answer. I immediately sent Mr. Helm to Mr. Caldwell after purchasing the paper, and that demonstration of violence, saying that I had purchased the paper with no intention of fighting Mr. Caldwell ; that I opposed his election because it was an injury to our town, but as he was elected, I would say nothing against him in the conduct of the Times in any shape, but join him in any effort he would make to build up our town, and I believe I have never published an editorial article against him written by myself, and only published one at all, and that was written by Mr. Burke.

Q. Has not your paper constantly, if not daily, at intervals at least, since you have had control of it, deprecated the election of Mr. Caldwell—anathematized it ?

A. Not a word editorially. I can tell you—

Q. I do not ask you to go into details.

A. I will not go into details ; I will say that I have copied articles in regard to this canvass and have published two or three editorials in which I said it was the plain duty of Mr. Caldwell to demand an investigation, and that he had made a mistake when he secured the services of Jennison and Legate as his defenders.

Q. I did not ask for that ; we can get copies of the papers themselves and see what you have written.

A. I would be glad to have the files examined.

Q. You have copied articles against Mr. Caldwell ?

A. Yes, sir.

Q. You say you had a conversation with Mr. Caldwell on the cars at some time ?

A. Yes, sir.

Q. When was that ?

A. I think that was the Friday preceding the election, and was on the cars between Lawrence and Leavenworth.

Q. What election do you refer to?

A. His election to the Senate.

Q. Was that the conversation in which he said it had cost him \$60,000?

A. No, sir.

Q. Where was that conversation?

A. I think it was in front of Newman and Haven's bank.

Q. When was it?

A. Along some time previous to the purchase of the Bulletin.

Q. When was that?

A. A year ago last fall.

Q. That was the fall of 1871?

A. Yes, sir.

Q. Are you sure about that?

A. Yes, sir; just previous to the purchase of the Bulletin.

Q. You say that this conversation with Mr. Caldwell, in which he said that he had purchased these notes of Burke, and that altogether his election had cost him \$60,000, occurred there and then?

A. Yes, sir.

Q. Can you name the month?

A. No, sir.

Q. About the month?

A. It was some time after I purchased the Times until I got possession of the Bulletin. I saw him several times.

Q. Was it about the 1st of December, 1871?

A. Yes, sir.

Q. You testified before the committee at Topeka?

A. Yes, sir.

Q. How did it happen that in that investigation you said not a word about Mr. Caldwell having admitted the payment of \$60,000?

A. He never had admitted it to me then.

Q. You say it was in the fall of 1871, before this investigation, and this took place in 1872?

A. They never asked me about it.

Q. Why did you omit to state it?

A. I did not state anything in that about Mr. Caldwell.

Q. Did not Mr. Caldwell's name appear there in your testimony several times?

A. I do not know.

Q. Have you read the testimony?

A. Not lately.

Q. On whose behalf were you summoned before that committee?

A. I do not know; it was by the sergeant-at-arms.

Q. At whose instance were you subpoenaed?

A. I do not know.

Q. Were you there?

A. I was.

Q. You seem to have been questioned in a general way before that committee, as appears on page 75, as to your knowledge or information of corrupt appliances having been used in the election of Mr. Caldwell. How did it happen that, in answer to such questions, you did not say that Mr. Caldwell had admitted to you that the election had cost him \$60,000?

A. No question was put to me, that I remember, about Mr. Caldwell.

Q. Was this question put to you: "Have you any knowledge or means of getting any knowledge of the appliances that were used by any person that was a candidate for election at that time to secure votes?"

A. I presume so.

Q. Was this your answer: "I had general knowledge?"

A. Yes, sir.

Q. Were you asked, "Well, sir, you may state what knowledge you had?"

A. I presume so.

Q. Did you answer, "I could hardly state what that general knowledge is. It is simply the general belief and talk in the streets, the opinion being so general and extended that it could hardly be stated?"

A. I do not know whether that was my answer or not. I know that was the belief and knowledge and talk by the friends of Mr. Caldwell—that he had got money enough to secure his election, and that he would take \$50,000 if necessary.

Q. I am not asking you now about the rumors; I am asking you if you thus answered that question at that time, though you now stated that Mr. Caldwell had admitted the previous December that he had expended \$60,000. How came it that you omitted that statement from your answer then?

A. I can only state that when I went before that committee I regarded the whole thing as a farce, and it was so regarded by everybody that went there. We avoided everything we could. That is the general belief.

Q. Do you say you avoided making that statement before that committee at the time because you thought that it was a farce?

A. I did not avoid anything; only we did not take any interest in the committee, and did not believe it would amount to anything.

Q. Why did you omit such an important statement?

A. I may not have thought of it at the time. I probably have not told you here one-tenth part of the conversations that have occurred, and if I should read that book through I could probably recall a hundred other things.

Q. Who was present at that conversation in front of Newman & Haven's bank, in December, 1871?

A. I do not think anybody else.

Q. What was the occasion of that conversation?

A. My trying to purchase the Bulletin. He was very friendly to me.

Q. Is Mr. Caldwell a gentleman in his intercourse with men?

A. Sometimes he is; sometimes he is not.

Q. In a general way is he?

A. I should say so.

Q. Were you in Mr. Caldwell's confidence and that of his friends?

A. They trusted me a good deal. I had done a good deal for them, especially for the narrow-gauge road. I had worked for them the whole summer.

Q. Was Mr. Caldwell in the habit, at any time, of making confidential communications to you?

A. Sometimes, perhaps; I have half a dozen letters—one a letter of thanks to me—from him.

Q. Where are those letters?

A. I have them at home.

Q. What are their dates?

A. I cannot tell.

Q. When was one of them written ?

A. After I had bought the Times.

Q. What was the subject of it ?

A. One was in regard to my railroad policy, and thanking me for what I had done, and saying that he concurred with me; and another on the duty of the people of Leavenworth to stand by their Senator and sustain him, and that if they did not sustain him he could never be useful to them.

Q. Can you produce that letter ?

A. I think I can.

Q. Can you do it within ten days ?

A. I think I can.

Q. Will you do it ?

A. Certainly, I will do it; I will produce every one I have got.

Q. How did Mr. Caldwell happen to write to you on that subject ?

A. I do not know.

Q. Had you written to him ?

A. I may have done so.

Q. If you did, what was the subject of your letter ?

A. I cannot recollect.

Q. Was it concerning railroads ?

A. Probably I wrote to him concerning that subject.

Q. What railroads ?

A. I think this was the Galveston road; I know it was the Galveston road, because he made special reference to the course I was taking on that road.

Q. I ask if Mr. Caldwell ever wrote a letter to you upon any subject, except in reply to one written by you to him.

A. I do not know.

Q. What is your best impression ?

A. I could not say.

Q. Were your relations with Mr. Caldwell, since you became connected with the press or since his election, such as to induce him to write letters for your advice ?

A. He has said to me, since my connection with the Times, that he approved its course on certain subjects.

Q. What were your relations ?

A. Friendly.

Q. Were you in the habit of visiting his house ?

A. No, sir.

Q. Did he go to your office ?

A. Yes, sir.

Q. How often ?

A. Since I have bought the Times, probably half a dozen times; he and Len. Smith were there together.

Q. Were you ever in Mr. Caldwell's house ?

A. No, sir; I have been invited there by him frequently.

Q. When ?

A. Since he has been Senator.

Q. On what occasion ?

A. To come up and have a talk with him.

Q. About what ?

A. General matters. Mr. Caldwell and Mr. Smith were both in my office, immediately preceding his coming to Washington the last time, in regard to making Mr. Burke postmaster, before Mr. Clark was appointed.

Q. You said you were at Topeka during the senatorial contest resulting in the election of Mr. Caldwell?

A. Yes, sir.

Q. How did you happen to go there? What was your business?

A. I went there wholly on the senatorial fight.

Q. Were you not a member?

A. I was not.

Q. What sort of a fight were you going to make?

A. I was opposed to the election of Mr. Caldwell, and in favor of Mr. Walker.

Q. After you got up there did you have some conversation with Mr. Caldwell on the subject of this senatorial contest?

A. I did.

Q. I ask you if you did not, about the 12th or 13th day of January, 1871, in Mr. Caldwell's room in the Tefft House, say to him that you were very poor and needed money, and would go for him for \$5,000.

A. He made me an offer of \$5,000, I think; yes, sir; he made some talk of \$5,000.

Q. Did he offer you \$5,000?

A. He did.

Q. Why did you not take it?

A. In the first place I did not consider the offer as amounting to anything. I think if he had offered me \$5,000 I should have taken it.

Q. Did he offer you \$5,000?

A. Yes, sir.

Q. Why did you not take it?

A. He wanted to pay after his election.

Q. How did he offer to pay?

A. I was talking about his governorship, that he had promised that to so many persons; and I told him that would not be material, and remarked about our fights, that he had always had the money to ride everything through, and that promises would not be of value to me. Then he said he would make it a valuable consideration.

Q. Then he offered you \$5,000?

A. Yes, sir.

Q. He did not offer it in money?

A. No, sir.

Q. In what form?

A. I do not remember what form.

Q. Is he not a man of means?

A. Yes, sir.

Q. Would not his note or check be good?

A. Yes, sir; ordinarily.

Q. Would not that be good?

A. I have a little sense. I do not think his check or note would be worth a cent in such a transaction.

Q. Were you a member of the legislature?

A. I was not.

Q. Now, in regard to this railroad controversy in which you said you took the part of the citizens against the railroads, was there any consideration influenced you except a mere desire to protect the interests of the citizens of Leavenworth?

A. There was none; there was another consideration, too; I felt a pride in carrying on that war.

Q. The war resulted in an injunction by the circuit court against the city from tearing up the railroad?

A. No, sir.

Q. Did not Judge Dillon allow an injunction?

A. Yes, sir.

Q. Was not that made perpetual subsequently?

A. It was by consent of the city.

Q. After they built a depot?

A. Yes, sir.

Q. That was all settled up, was it not?

A. Yes, sir.

Q. Who tore up the railroad-track?

A. The city marshal.

Q. Who helped him?

A. Nobody.

Q. He did it himself?

A. He tore it up first; afterward there were other places torn up and others helped.

Q. Did you assist in it?

A. I did. I was with him when it was torn up. At the time it was torn up nobody else did a thing but the city marshal. It was by the special request of the city marshal, who did it, in the presence of hundreds of men, with a crowbar.

Q. About the time of that controversy did not you in your office offer to Mr. Levi Wilson that for \$10,000 you would advocate the position of the railroad company or use your influence to have the matter settled?

A. No, sir.

Q. Did you not say to Mr. Wilson, as a member of the council, in your office, that if he would pay you \$10,000 in money, you would guarantee that they might be released from their obligations to build a depot?

A. No, sir.

Q. You swear that you did not say that to Mr. Wilson?

A. I did not. Shall I explain now?

Mr. CROZIER. You may, if the committee desire to hear it, after I am done.

Mr. CARPENTER: His explanation is proper at this point.

The WITNESS. Levi Wilson was a director in the road and came into my office and desired to see me privately. I invited him into my private office, or back office, not my newspaper office.

By Mr. HILL:

Q. What you call the sanctum?

A. No, sir; I had two offices at the time, one for general business. We went into the back room, and we were alone. The first proposition he made was, "I want you to vote for the Edgerton compromise. What will you take?"

By the CHAIRMAN:

Q. Were you a member of the council?

A. Yes, sir. The Edgerton compromise was a release of the railroad company from its contract. Judge Dillon had decided in favor of the city. I answered and told him, "\$25,000." He said he had had a meeting with Mr. Caldwell, and Mr. Smith, and Mr. Newman, and they had agreed to give me \$2,500. I told Mr. Wilson that \$10,000 would not be an inducement for me to vote, for the whole city was looking upon me, and if I sold out the whole would go, and they would feel that I had deserted them. He left the office and immediately I went to James McCahon, my counsel and adviser, and H. R. Hammond, a member of the city council. I told him the conversation; that he, Wilson, was

coming the next day, and was buying the council. The next day Wilson came in and offered me \$5,000 in cash and \$5,000 to be paid after the vote was had. That was the substance of the conversation. I declined it. Mr. Wilson makes this statement, which agrees with mine, except that Mr. Wilson says that I said if they would make it \$10,000 cash I would vote for it. Mr. Wilson's statement agrees with mine in everything but that.

By the CHAIRMAN:

Q. Do you deny that statement?

A. I do. At the same time Mr. Wilson said that Mr. Caldwell and they all would support me for a seat in the United States Senate.

The CHAIRMAN. I think this testimony is getting pretty remote from our investigation.

By Mr. CROZIER:

Q. Colonel Anthony, do you mean that Len. Smith and Mr. Caldwell got \$500,000 of bonds from the city and county of Leavenworth for building the railroad?

A. The company did of which Mr. Len. Smith is president.

Q. If you will answer my question we will get at it shorter. Were they the sole persons interested?

A. They were not.

Q. How many were interested?

A. I think there are twelve in the company.

Q. Were not several of those gentlemen citizens of Saint Louis?

A. Three or four of them were. The majority of the stockholders were in Leavenworth.

Q. Was not Mr. Garrison, of Saint Louis, one?

A. I do not know.

Q. And Mr. Peck?

A. I do not know.

Q. And Mr. Hart?

A. I do not know.

Q. And Mr. Taylor?

A. I have heard that he was.

Q. Was Mr. Scott, of Philadelphia, interested in it?

A. I have heard that he was.

Q. These bonds were voted by the people to that corporation?

A. They were.

Q. Were those gentlemen connected with the corporation at all when the citizens voted these bonds?

A. Mr. Carney was mayor.

Q. Were those gentlemen connected with the company?

A. Mr. Smith was president of the company.

Q. Was he at the time the bonds were voted by the people?

A. I do not think there was any organization; there might have been a temporary organization then.

Q. These gentlemen then were not the railroad company at that time?

A. At what date?

Q. At the time the bonds were voted by the people.

A. I should say not.

Q. You say stock issued by the city for that company was subsequently transferred to another company for building a road from Leavenworth to Atchison?

A. Yes, sir.

Q. How was the majority on that question ?

A. It was very large.

Q. How was the majority on the issuing of these bonds originally ?

A. Unanimous, or nearly so.

Q. Did anybody vote against it ?

A. I think not, or only a few ; I voted for it.

Q. For building the railroad ?

A. Yes, sir.

MONDAY, *January* 13, 1873.

WILLIAM H. PECKHAM sworn and examined :

By the CHAIRMAN :

Question. Where do you reside ?

Answer. At Big Springs, Douglas County, Kansas.

Q. Were you a member of the legislature that elected Mr. Caldwell to the Senate ?

A. I was.

Q. State what you know in regard to the use of money or other corrupt means by Mr. Caldwell or his friends to procure his election to the Senate.

A. I do not know any.

Q. Did you not hear of anything of the kind ?

A. No, sir.

Q. Neither from Mr. Caldwell nor any of his acknowledged friends there ?

A. No, sir.

Q. Were any offers made to you by anybody to secure your vote ?

A. No, sir.

Q. When you were sent to the legislature whose friend were you—whom did you support ?

A. For the United States-Senate ?

Q. Yes, sir.

A. Well, sir, my desire was to get up a democrat ; to stick to him. I desired the democratic party, if possible, to go for a democrat, and stick to him ; but circumstances changed, so that we were compelled to throw by our intentions, and split, and went any way we were a mind to.

Q. Do you know H. S. Greeno ?

A. I do.

Q. Where did he live ?

A. I guess he lives in Topeka.

Q. Where did he live then ?

A. He lived in Topeka then.

Q. What is his business ?

A. Druggist.

Q. What was your business at home ?

A. Farming.

Q. Did you afterwards purchase an interest in Mr. Greeno's drug-store ?

A. I did.

Q. For how much ?

A. It amounted to, after the stock was taken, about \$2,200.

Q. Did you pay him down for that interest ?

A. No, sir ; he did not want pay down.

Q. Did you give him your notes?

A. No, sir; I indorsed paper for him.

By Mr. CARPENTER:

Q. Whom did you buy of?

A. This man Greeno. In the first place I refused to have anything to do with the store. It was him that spoke to me to buy in this drug-store. I did not want to have anything to do with it. I told him at the time I had no money to purchase into the drug-store—that my money was in my farm and lands, and in stock. I went home, and he wrote me a letter stating that he could make it all right—that letter I have in my possession—and for me to come down again. I then went down, and he says to me, “I have got certain notes or judgments against me which will be foreclosed, and, if I cannot get relieved of them, they will close me up.” I asked who had them. He told me certain parties in Topeka; and I went and indorsed the papers and took an interest in the drug-store.

By the CHAIRMAN:

Q. Did you buy the interest, and have you paid for it?

A. Yes, sir.

Q. To whom did you pay the money?

A. I paid the money to him, H. S. Greeno.

Q. Did he pay off this judgment for which you indorsed?

A. Yes, sir; part of them.

Q. When did you make this purchase of this interest?

A. About the 16th or 17th of April; after the election.

Q. Whom did you vote for in the election?

A. For Mr. Caldwell.

Q. Both times?

A. Yes, sir.

Q. Did you tell Mr. Greeno that you expected to receive money from Mr. Caldwell, or from the Caldwell party; that the promise had been made during the senatorial contest?

A. No, sir; not definitely. I never told Mr. Greeno or any other man I expected to get a cent. I will tell you what I have said, in order to straighten this thing up. I have said many things about this contest. I may have told men I got \$1,000, or \$3,000, or \$5,000. If any gentleman has ever been in a canvass, he knows how it is; that there has been a thousand persons pulling him, and hauling him, and wanting to know what he was going to do. I suppose that as a democrat I was as much abused as any other man in the legislature.

Q. You say you did not tell him so “definitely;” did you tell him to that effect?

A. I may have told him so time and time again, that I had got \$1,000 or \$5,000. I cannot tell.

Q. Would you make statements of that kind showing yourself to be corrupt unless they were true?

A. Why, yes.

Q. You would?

A. Yes, sir; in order to deceive any man that would attempt to talk to me about buying my vote.

Q. To deceive him?

A. Yes, sir. I do not conceive that any man has a right to talk with me in that way.

Q. But this purchase in the drug-store was made long after the election, and there could have been no purpose of that kind then?

A. Not at that time. The purchase was made afterward. I never

said a word to him after that about it, not a word pertaining to Mr. Caldwell after the canvass. It may be possible that some time afterward I may have said that I made \$5,000 out of it.

Q. I ask whether you did not tell Mr. Greeno in the course of the negotiation in this drug-store, or afterward, that you expected to get money of Mr. Caldwell or his party?

A. To pay for that drug-store?

Q. To help to pay for it.

A. No, sir; never.

Q. Did you ever tell anybody that you got \$1,000 or \$5,000?

A. I cannot tell you. I may have said so.

Q. Do you think you have said so?

A. I have no doubt of it; no doubt I have said so a good many times.

Q. Did you say so to Mr. Greeno?

A. I do not know whether I did or not, because I was in Mr. Greeno's store a good many times during that time. Like a good many others that wanted to button-hole me to find out all he could, he would ask, and I might have told him incidentally I had got that much, but it was in order to deceive him.

Q. What object would there be in trying to deceive in that way?

A. To escape annoyance.

Q. Would that be a good way to escape annoyance, to make such a statement about yourself?

A. Yes, sir; if you would tell him that you had got \$5,000 he would not trouble you again.

Q. But Greeno was not a candidate?

A. No, sir.

Q. Was he at work for anybody?

A. Yes, sir.

Q. For whom?

A. I do not know.

Q. Then what object had you in telling him such a thing if it was not true?

A. Well, because my object was that I did not want him, or anybody else, to say anything to me about it.

Q. You thought that that was the best way—to admit that you had been bought?

A. Yes, sir.

Q. Did you go to Leavenworth after the senatorial election to see Mr. Caldwell or Mr. Len. Smith about any payment of money to you?

A. No, sir.

Q. Did you tell Mr. Greeno so?

A. I do not think I ever did.

By Mr. TRUMBULL:

Q. Did you go to Leavenworth?

A. Yes, sir; I went there frequently. I had been in business in Leavenworth.

Q. You say you think it was a proper way of talking to say that you were paid \$5,000 for your vote?

A. No; I do not think it was a proper way, but the best way to get rid of people.

Q. You voted for Mr. Caldwell?

A. Yes, sir.

Q. You were a friend of Mr. Caldwell?

A. I suppose we are friends.

Q. You would not have voted for Mr. Caldwell unless you had some respect for him?

A. Of course not.

Q. Did you think it was treating Mr. Caldwell as a proper person for Senator to say that you were bought by him?

A. No, sir; I do not think it was, taking it in that light; but in a canvass you know how it is.

Q. You did not have any hesitation in saying that the man you thought the proper man to be elected Senator had bought you up?

A. No, I do not think anybody ever thought I got a cent.

Q. You see the consequences?

A. I see the consequences now.

Q. You say on your oath that you regard that as the best way to do—to make such a statement?

A. I would not do it again; I did so at that time. If anything of the kind should occur again, I should have nothing to say to the parties at all.

Q. Was your sense of the proprieties of an election such at that time that you thought it was no reflection on Mr. Caldwell to make such a statement?

A. It must have been at that time, or I would not have done it.

By Mr. CARPENTER:

Q. Did you receive any money?

A. No, sir.

Q. Any benefit?

A. No, sir.

Q. In any shape, manner, or form?

A. No, sir.

Q. Was there any promise to you?

A. No, sir.

By Mr. TRUMBULL:

Q. No expectation held out in any shape or form?

A. No, sir.

By the CHAIRMAN:

Q. Did you not tell Doctor Greeno at one time that you were to get \$2,000 at least for your vote for Mr. Caldwell?

A. No, sir; I never told him so.

Q. Did you not tell him that you had been to Leavenworth several times; that you had been disappointed, and that you believed that Caldwell and his whole clique were a set of rascals?

A. I did not.

Q. Did you tell him that during the contest you presided over a caucus of democratic members of that legislature?

A. I do not know that I told him that; but that is the case. I did.

Q. Did you tell him that you had convened that caucus, and that you used your influence to get the democrats to go for Mr. Caldwell?

A. No, sir.

Q. Did you tell Doctor Greeno, in any of these conversations, that you thought as long as money was going and being used you had a right to make the most of it?

A. I do not know. I cannot really tell you whether I ever said anything of the kind or not. I do not think I ever did. I do not think I ever said so.

Q. Did you state to Dr. Greeno that this promise to pay you the money was made by Len. T. Smith and Mr. Anderson?

A. No, sir; I never did.

Q. Do you know J. W. Wood?

A. Yes, sir.

Q. Was he a member of the legislature?

A. He was.

Q. Did you ever talk to him in regard to voting for Mr. Caldwell?

A. Yes, sir.

Q. Did you intimate to him that he could be paid for voting for Mr. Caldwell?

A. No, sir.

Q. Do you know Mr. J. C. Vincent?

A. I do.

Q. Was he clerk in this drug-store?

A. No, sir.

Q. Was he a member of the legislature?

A. He was a senator from Douglas County—the same county I was from.

Q. Did you know that he was examined at Topeka as a witness?

A. I did not know until he was examined.

Q. Do you know what he testified to on that occasion?

A. No, sir.

Q. Did you tell Mr. Vincent that you had had an opportunity of making \$2,000 by voting for Mr. Caldwell?

A. No, sir; I never told him so.

Q. You say you never told Mr. Vincent that you had had an opportunity of making \$2,000, or any other sum, in that way?

A. No, sir.

Q. You stated before that you had, perhaps, often said that you got one or two or five thousand dollars?

A. Well, I said not anything definite; I never told any one as a fact. I may have said, time and time again, that I had received \$5,000, or \$1,000, or \$2,000, or a hundred; I do not know what I may have said.

Q. Do you know William Melville?

A. Yes, sir.

Q. Was he clerk in that drug-store?

A. Yes, sir; he was not a clerk at that time, but the partner of Mr. Greeno.

Q. Do you know that he was examined as a witness?

A. I knew afterward that he was.

Q. Do you know that he testified that you told him the night after the election that you were to get \$2,000 for your vote?

A. No, sir; I never did.

Q. That, nor any other sum?

A. No, sir; not anything positive. As I said, it may have been something of the kind, but I never talked to him about the canvass.

Q. Did you not tell Melville, or say in his presence, that you had made three visits to Leavenworth to see Mr. Caldwell to get him to comply with the engagement?

A. Not to my knowledge.

By Mr. TRUMBULL:

Q. Would you not know if you had?

A. I should think I would. If you want me to say no, I will say no.

By the CHAIRMAN :

Q. Did you tell Mr. Vincent, in the course of this conversation, that the reason why you did not get the money, or why they refused to pay you the money, was because you had failed to control the democratic votes in favor of Mr. Caldwell?

A. Not that I know of. I do not remember of anything of the kind. Still there may have been something said. I cannot be positive about that. There might have been something said of that character.

By Mr. CARPENTER :

Q. Would there have been anything of the kind said if there was no truth in it?

A. Yes, sir. Good gracious! if you get into a canvass, which I think you have been there —

Mr. CARPENTER. I never was in such a canvass.

The WITNESS. But seeing such a thing yourself you would know.

By Mr. LOGAN :

Q. Is it a common thing for members of the Kansas legislature to go around telling how much money they have received for their votes?

A. Well, it appeared to be a kind of common thing there that winter. I do not know whether that is so or not.

Q. Is it not considered a disgrace for a man to sell his vote in Kansas?

A. Yes, sir, I think it was.

Q. What do you know?

A. Well, I believe it.

Q. Do you think a man who would sell his vote would be utterly disgraced in the community there if it was known?

A. Yes, sir.

Q. What inducement had you for trying to make people believe you were in that condition?

A. Well, I cannot tell you what inducement.

Q. Have you no respect for your character?

A. I try to have.

Q. Did you not think that your telling them that would deprive you of that good character you were desirous of having?

A. No, sir, I did not think so at that time. I did not think it amounted to anything at the time, because everybody had hold of you pulling and hauling you and wanting to know who you would vote for.

By Mr. HILL :

Q. And how much you would get?

A. Yes, and how much would you get, and there was enough to set a man crazy.

By Mr. LOGAN :

Q. Is it a common thing in the Kansas legislature for men to ask members of the legislature what they are to get for their votes?

A. I do not know. I was there two years, and I got enough of it.

Q. Was it a common thing in the two years you were there?

A. No, sir; only one year.

Q. Well, for the time you were there?

A. It appeared to be common; I do not know. They both looked to me as though they were both in the mire.

By the CHAIRMAN :

Q. Both who?

A. Well, our friends here, Clarke and Caldwell; I might say the whole batch of them.

By Mr. TRUMBULL:

Q. What do you mean by that?

A. It was common talk of the people that the friends of these two candidates were running around asking the people who they were going to vote for, and what they were going to get.

Q. Was it not understood that money was used?

A. No, sir.

Q. Did you not understand it and believe it?

A. No, sir; I do not believe any money was used, so far as I know.

Q. Did you not believe at that time that money was being used there?

A. To buy votes?

Q. To influence votes.

A. There may have been money used to influence votes outside, or by outsiders.

Q. By the friends of the candidates to influence votes?

A. Well, I do not know how to apply that.

Q. You do not know whether you believe it or not?

A. I do not know how to apply it. If you ask me whether I believe any member got any money for voting for those candidates, I will say no; but if you ask me if any outsider got any money for talking, as a lobbyist rather, I will say yes.

By the CHAIRMAN:

Q. Did you not say a little while ago that both were in the mire, meaning Clarke and Caldwell, and then say the whole lot or batch of them?

A. I mean the whole of them.

Q. When you say this talk of corruption was so common, and that everybody was talking about it, asking what the members were to get, did not that conversation grow out of a belief that corruption was employed; would such a conversation have occurred if that belief had not prevailed?

A. I do not know that it would have been so.

By Mr. LOGAN:

Q. Did any member of the legislature even ask you how much you were to get for your vote?

A. No, sir; I think not; not to my knowledge.

By Mr. CROZIER:

Q. Were these remarks, about the payment of money, made by you with the serious intention that they should be believed, or in a jocular manner?

A. Only a joke. I never would put out an issue of that kind to injure any person knowingly. Of course it was more in the shape of a joke than anything else.

Q. Did Mr. Caldwell at any time have any conversation with you in reference to money for your vote?

A. No, sir.

By Mr. CARPENTER:

Q. Did anybody have any conversation with you in reference to your vote for money?

A. No, sir.

By Mr. CROZIER :

Q. Did Mr. Caldwell personally ever solicit you to vote for him ?

A. No, sir.

By Mr. CLARKE :

Q. Look at this gentleman, (pointing to Mr. John Fletcher in the committee-room.)

A. Yes, sir ; I see him.

Q. Do you know him ?

A. Yes, sir.

Q. Inform the committee what his name is.

A. His name is John Fletcher.

Q. Did you ever state to Mr. Fletcher that you were to receive the sum of \$2,000 for your vote ?

A. No, sir ; not definitely, as a positive thing. I do not think I ever said anything to him about it.

By the CHAIRMAN :

Q. What do you mean by saying not definitely ?

A. Just as I said before, that I never meant anything of that kind. If I ever said it, it was done in a kind of off-handed way.

WILLIAM H. PECKHAM, at a later hour, re-appeared before the committee, and stated further, as follows :

In behalf of myself, I would like to say in reference to this Greeno affair, I desire to offer these letters to the committee. (Producing several letters.) I desire to offer them to show how this man had acted in reference to forcing me to make certain statements. I will also state that I was in business in Leavenworth, and I am satisfied that the people of Leavenworth are very well contented with Mr. Caldwell for Senator. I am a business man, and know how the people feel.

The CHAIRMAN. After looking at these letters, I think they are not material for your defense before the committee.

WILLIAM H. PECKHAM reappeared: In one part of my evidence I said I had paid Mr. Greeno. I have a suit now in the courts of Lawrence. I mortgaged my farm for \$2,000, which money I gave to Greeno, and have advanced to the tune of fourteen or fifteen hundred dollars to pay his debts, which is more than enough to pay the difference between the \$1,600 and the \$2,200 which I agreed to pay, and to cover the surplus. I have paid his debts, and the firm's debts, and that amounts to about \$2,000.

MONDAY, *January* 13, 1873.

JOHN FLETCHER sworn and examined.

By the CHAIRMAN :

Question. Where do you live ?

Answer. Topeka, Kansas.

Q. Did you live there when the election of Mr. Caldwell took place ?

A. That was in 1871 ?

Q. It was.

A. I did.

Q. Were you about the legislature or the streets at the time this canvass was going forward ?

A. I was there. I think the legislature had been in session a week,

or perhaps some five or ten days, before I arrived. It may, perhaps, be not so long. I have not the date when I arrived. If I could tell the date when the senatorial election took place, I could get it.

Q. Well, before the election?

A. Yes, sir.

Q. State to the committee what you know, if anything, in regard to the use of improper means, money, or corrupt influence, on the part of Mr. Caldwell, or any of his friends, to bring about his election.

A. I know of no corrupt means being used; only from hearsay.

Q. Did you ever have any conversation with Mr. Peckham?

A. I think I did, once.

Q. Where?

A. In the Tefft House, I think.

Q. When was that?

A. It was the day previous, I think, to the first vote on the senatorial canvass.

Q. What did Mr. Peckham tell you?

A. Well, the conversation arose about in this way. I was taking an active part in the canvass there.

Q. Who were you a friend of?

A. When I arrived home I supposed the Hon. Thomas Carney was a candidate for the Senate, but I found that he had withdrawn, and the friends of Governor Carney seemed to go for Mr. Caldwell, and I took an interest in the same direction.

Q. What did Mr. Peckham tell you?

A. We were talking about matters as I talked to a number of them. He was a member from Douglass County, and I was talking about the chances of the different candidates, and trying to prevail on him to support Mr. Caldwell. He said Mr. Caldwell, as near as I can remember—not Mr. Caldwell, but the party—had offered him as fair as anybody else. I think I asked what they had offered, and he said \$2,000—not Mr. Caldwell, but I think he said some of the party.

Q. Had offered him as fair as anybody else, and had offered him \$2,000?

A. Yes, sir.

Q. What did he say he would do?

A. I told him that was a fair offer and he ought to support him. I was interested in the matter a good deal, and left the impression on his mind that it was as good an offer as he could get.

Q. Did he say he would take it?

A. I am not sure about that, but I left with the impression that he was going to support Mr. Caldwell.

Q. Did you converse with him at any time about it?

A. I think I had a conversation the day before the final vote was taken in the joint convention. I think I had about the same conversation, or something of the kind.

Q. What did he tell you there?

A. That he was going to support Mr. Caldwell.

Q. Did he say anything more to you about the two thousand dollars?

A. I do not think he did. I do not remember that it was named that last day.

Q. Was there anything said in that conference about accepting the offer that had been made to him?

A. No, sir.

Q. Was that before or after the vote was taken in joint convention?

A. It was before the vote was taken. I had no conversation with him after the vote in the joint convention in the house.

Q. Before the vote was taken, and on that day, he told you he was going to support Mr. Caldwell?

A. Yes, sir.

Q. How did he come to tell you? Did you approach him or did he approach you?

A. I think I approached him, or may be he approached me. We were mingling together. I know the conversation occurred in the Tefft House a few minutes before the time for the joint convention to meet.

Q. Do you know of anybody receiving money or being promised money?

A. I do not know of my own knowledge.

Q. Did anybody else tell you that he had been promised money, any other member of the legislature?

A. Well, Mr. Clapp from Johnson County told me.

Q. In which house was Mr. Clapp?

A. The lower house.

Q. What did he tell you?

A. He was a friend of mine. He was there for the purpose of voting for Mr. Crawford, I think, as near as I can tell, and I was trying to get him to go for Mr. Caldwell. He asked me what inducement could be held out, and I told him. Caldwell could hold out as good as any of the candidates could, and he went on to state that he had some offers from them.

Q. From whom?

A. He said from the Caldwell party. He said he had had some offers from them, and I think I asked him, and he did not make me any definite answer himself; but the next day, or that afternoon, I met Mr. Gage, who was another intimate friend of Mr. Clapp, and he went on to state that they had offered so and so.

Q. To whom?

A. To Mr. Clapp; that the Caldwell party had offered so and so to Mr. Clapp.

Q. How much?

A. He told me they had offered \$800 and the promise of \$400.

By Mr. CARPENTER:

Q. In addition to the \$800?

A. Yes, sir.

By the CHAIRMAN:

Q. Eight hundred down?

A. Yes, sir.

Q. And \$400 at another time?

A. Yes, sir. I asked what had been concluded. He said he had the matter under advisement.

Q. Did Mr. Clapp tell you himself what the offers made to him were?

A. No, sir. I did not ask him.

Q. Did you have any other conversation with Mr. Clapp?

A. I do not think I did.

Q. Did Mr. Clapp vote for Mr. Caldwell?

A. I think he voted for him on the last ballot.

Q. Was this conversation with Mr. Clapp between the two ballots?

A. I think it was the day before the first ballot.

By Mr. CARPENTER :

Q. Was it at the Tefft House ?

A. Yes, sir.

Q. You say you had substantially the same conversation between the two votes ?

A. No ; not with Mr. Clapp, but with Mr. Gage.

By the CHAIRMAN :

Q. Do you know of any other case of parties having offered or received money, of your own knowledge or of which you were told ?

A. No, sir ; I do not.

Q. You stated in your evidence awhile ago that you told Mr. Peckham, when you urged him to vote for Mr. Caldwell, that you were considerably interested, if I remember your language ?

A. Yes, sir.

Q. State what interest you had, if anything.

A. Well, we have had, perhaps you are not aware of it, but in that section of country, considerable of a local fight in our place over our United States courts and court-house and public buildings, and I had talked with Mr. Caldwell as regarded this matter, and he said he felt very friendly toward Topeka ; and one thing in particular impressed on our mind in conversation with him and Mr. Fitzpatrick, the senator from our county who voted for Mr. Caldwell, was that he would not interrupt our Federal courts. You know we have a United States court ; it was located there at Topeka ; and after this agreement had been made between Mr. Caldwell and Mr. Fitzpatrick, myself and quite a number of other citizens took a great interest in having Mr. Caldwell elected, because we felt that we would be protected in our local interests.

Q. Was that the only interest you had ?

A. Yes, sir.

Q. There was no offer to pay you for your services ?

A. No, sir.

Q. Was there any offer of that kind ?

A. No, sir.

By Mr. CARPENTER :

Q. Were you paid anything ?

A. No, sir.

By the CHAIRMAN :

Q. Never had any offer ?

A. No, sir.

Q. Is there any fact touching the manner of Mr. Caldwell's election within your knowledge that you ought to state ? I commend the matter to your conscience.

A. None that I can think of, sir.

By Mr. CARPENTER :

Q. I want to ask about this conversation with Peckham. Who was present ?

A. There was quite a house full in the Tefft House.

Q. Was that conversation between you and him apart from the crowd ?

A. Yes, sir, it was ; as if I would call a gentleman out of this room to that corner and speak to him.

Q. Did you understand Peckham to be talking seriously, earnestly, or joking ?

A. I was serious and supposed he was. I do not know his style of conversation.

By the CHAIRMAN :

Q. It was not put at you as a joke or conundrum ?

A. Well, I meant business, and I suppose he did.

By Mr. HILL :

Q. Was that the case at both conversations ?

A. As I said before, on the joint session, I had a similar conversation with Mr. Peckham.

Q. Was that apart also, like the previous one ?

A. It was in the Tefft House ; I do not remember whether on the sidewalk or immediately in the house ; but we were by ourselves.

Q. You stood so that nobody else should overhear it ?

A. Yes, sir.

By the CHAIRMAN :

Q. You were reported by the legislative committee as being recusant at the time of the former examination. What are the facts in regard to that ?

A. The facts are, at that time I was a Government beef-contractor at different posts—at Larned, Dodge, and Camp Supply. I went off to Camp Supply, after the legislature met in January, to look after my business, and in my absence there came a heavy snow-storm, which delayed me ; and while I was absent a subpœna was left at my house. On my return my wife handed me the subpœna and asked me what it meant. I stated it was a subpœna. I got home at 2.30 in the morning. About 9 o'clock that same morning I walked out and met the sergeant-at-arms of the senate, and told him I was in town and had found the subpœna. He said, "I think the committee will meet to-night." So that evening, after tea, I walked up to the Tefft House, where the principal part of the legislature boarded, and I met Mr. Snoddy, the chairman, and reported to him, and said, "I found a subpœna at home, and I am at your command when you want me before your committee ;" and he, in a very majestic way, said, "It is your place to come up, and if we want you this evening we will call you, and, if not, you can wait." I thought it was rather a trifling remark to make, as I lived in town, and it was handy to send for me ; and I just turned on my heel and said, "Mr. Snoddy, if you want me your sergeant-at-arms can send for me." I was there for six or eight days, right by them.

By Mr. CARPENTER :

Q. Had you not gone off for the purpose of avoiding testifying ?

A. No, sir ; I went on private business.

By Mr. HILL :

Q. Did the committee ever send for you ?

A. Not to my knowledge.

By Mr. CLARKE :

Q. You have spoken of an agreement between you, Mr. Fitzpatrick, and Mr. Caldwell, in reference to removing the United States court ; what was that agreement ?

A. It was about this: I went into Mr. Caldwell's room ; I think I introduced Mr. Fitzpatrick ; I don't remember whether I did that or not. I was very earnest in the cause of Mr. Caldwell, and we had this talk with Mr. Fitzpatrick, our senator, and I think Mr. Caldwell said, "Topeka should not be harmed," and it was agreed on.

Q. Did Mr. Caldwell give you or your citizens a writing that he would not secure the passage of any bill removing the court?

A. I do not think he gave any writing; I think some of our citizens have a memorandum of what he said.

Q. Who has that memorandum?

A. Well, I saw it, I think, the day before I left, in the hands of Mr. Welch.

Q. Who is he?

A. Mayor of our city.

By Mr. TRUMBULL:

Q. What was it?

A. It was a memorandum submitted to me on the Monday before I left—a memorandum of the conversation and agreement of Mr. Caldwell, and Mr. Fitzpatrick, and Colonel Veal, a member of the lower house.

Q. Did that memorandum agree with your recollection of your conversation?

A. Yes, sir; substantially.

Q. Have you stated it here?

A. Yes, sir; I have stated it to you the same as it was there; perhaps not so fully, because Mayor Welch had it written down in his book.

By Mr. CARPENTER:

Q. That was what Caldwell would do in regard to the sessions of the court?

A. Yes, sir.

By Mr. CLARKE:

Q. Did he do what he agreed to?

A. I do not believe he has. We have lost one term of court, and I do not think that was in compliance with his agreement. I do not know whether he voted pro or con. We have only had one term of court.

Mr. CARPENTER. The Judiciary Committee thought you were not entitled to it.

By Mr. CROZIER:

Q. At the time of this conversation between Mr. Fitzpatrick and Mr. Caldwell, were you all present?

A. Yes, sir.

Q. Was there a positive promise that Mr. Caldwell, under any circumstances, would permit a term of the circuit court and district courts to be held at Leavenworth?

A. I do not think that promise was made. I think the question of the courts was brought up, and Mr. Caldwell assured us Topeka would not suffer from him.

Q. I will ask if it had not been a subject of anxiety among the attorneys at Leavenworth, for several years, that there might be one term at Leavenworth and one there?

A. I think there has been some talk of it for some time.

Q. Does not a very large proportion of the business of the United States district and circuit courts come from Leavenworth County?

A. I am not prepared to answer.

Q. Is it not the most populous county in the State?

A. I do not know. I cannot answer.

Q. Is it the largest city?

A. Yes, sir; but I do not think you are going to retain that position a great while.

Q. In that conversation between you and Mr. Fitzpatrick and Mr. Caldwell, did not Mr. Caldwell say that he thought Leavenworth wanted to have one term, but he did not propose to have the entire court moved there?

A. No, sir.

Q. He did not say that?

A. No, sir; not in my presence.

By Mr. CALDWELL:

Q. I signed no paper?

A. I never saw your signature.

Q. You have known me for some time?

A. I have, for a couple of years.

Q. Not longer than that?

A. Yes, sir.

Q. Have you not known me for ten years?

A. I have known you ten years.

MONDAY, *January* 13, 1873.

FREDERICK K. HUNT sworn and examined.

By the CHAIRMAN:

Question. State where you reside.

Answer. At Leavenworth.

Q. What is your occupation?

A. I am teller of the First National Bank at Leavenworth.

Q. Where you present at Topeka when this election took place?

A. No, sir.

Q. Were you in the First National Bank at that time?

A. No, sir. I have never been in Topeka but twice.

Q. Do you know anything about a \$7,000 check drawn by Len. T. Smith in favor of Governor Carney?

A. No, sir.

Q. Do you know anything about a \$5,000 check drawn by Doctor Morris upon a bank in Leavenworth? Was that drawn upon your bank?

A. I cannot say.

Mr. CLARKE. This witness was called at my suggestion under the impression that he was the book-keeper of that bank.

The WITNESS. I am not the book-keeper, and do not know anything about the books.

By Mr. CLARKE:

Q. What books have been sent here by express?

A. The ledger for 1870 and 1871.

Q. Does it comprise the two years?

A. Yes, sir; I think so.

Q. Does it contain all the entries of the business of the bank during those two years?

A. Yes, sir; so far as my knowledge goes.

Q. If a check, draft, or other evidence of indebtedness was received or passed through the bank would it appear there?

A. If the books were kept in the right shape it would ; it ought to.

Q. You do not know whether, on account of the peculiar nature of this transaction, any exception was made in this case ?

A. No, sir.

Q. Who is the present book-keeper ?

A. Mr. Hills.

Q. Who was at that time ?

A. I think Mr. W. A. S. Bluitt.

Q. Are you sure ?

A. I am pretty sure of it.

Q. Where is he ?

A. In Leavenworth.

Q. Is he a book-keeper at this time ?

A. Yes, sir ; but not in that bank.

Q. From your knowledge of the business of the bank, if any check drawn at Topeka by Len. T. Smith or Mr. Caldwell, or any immediate friends of theirs, was received at that bank and passed through it, would a check or draft or other evidence of indebtedness be there, and would Bluitt know it ?

A. I could tell by the books, perhaps.

Q. Without the check ?

A. I would know by the check, but after the check is put on the rack that is the last I see of it.

Q. In what form are these checks ; do they show for what purpose they are drawn ?

A. No, sir.

Q. Would it not be exceedingly difficult to tell by the ledger where the checks came from ; could you tell ?

A. No, sir ; you would have to have the checks themselves.

Q. What is the usual course in reference to such things ; are they generally preserved ?

A. No, sir ; they accumulate so fast they get rid of them.

Q. Then are they destroyed ?

A. They are given back to those who keep the accounts.

Q. Then these books would not disclose for what purpose the checks were made ?

A. No, sir.

Q. You do not know whether any checks drawn at the time of this senatorial election were entered in this ledger or not ?

A. I do not remember of any.

Q. How long have you been in this city ?

A. I came here on Saturday.

Q. Who are the stockholders of the First National Bank ; is Mr. Caldwell a stockholder ?

A. No, sir.

Q. Is Mr. Len. T. Smith ?

A. No, sir.

Q. Mr. Robert Crozier ?

A. No, sir.

Mr. CROZIER. As this witness will have to leave, I will take an order from him for the ledger which is sent to him by express, and produce it before the committee ; it will show all that he could say about it.

Mr. CLARKE. So far as I am concerned I should not desire to call Mr. Crozier to explain the books.

WASHINGTON, D. C., *January 13.*

J. M. STEELE sworn and examined :

By the CHAIRMAN :

Q. Were you a member of the legislature in Kansas when Mr. Caldwell was elected to the Senate ?

A. Yes, sir.

Q. From what county ?

A. Sedgwick County.

Q. For whom did you vote for Senator ?

A. I voted for S. J. Crawford on the first ballot, and for Mr. Caldwell on the second and last ballot.

Q. What do you know in regard to the use or offer of money upon the part of Mr. Caldwell or his friends to secure votes ?

A. I do not know anything of any offer of money by Mr. Caldwell or any of his friends, except from general rumor, which is all over the State and in every newspaper, probably. That is all I know about it.

Q. Did you hear any statement upon the part of any of his leading friends there ?

A. No, sir.

Q. Did you hear any member of the legislature say anything about ever having been offered money ?

A. No, sir.

Q. Was any offer made to yourself by anybody ?

A. No, sir.

By Mr. TRUMBULL :

Q. No intimation that money could be had ?

A. No, sir. There were other offers made.

By the CHAIRMAN :

Q. By whom ?

A. Well, there were three candidates in the field—Mr. Crawford, my personal choice when I went there, entirely upon local interests however ; Mr. Caldwell, another candidate ; and Mr. Sydney Clarke. I was rather peculiarly situated. In my county there was no local legislation that could be performed for their benefit, and my vote seemed to be known, when I arrived at Topeka, to be pledged for the removal of the land-office from the adjoining town to our town—that is, to secure influence to have it moved to our place.

Q. Do you know Mr. T. S. Floyd ?

A. Yes, sir.

Q. Where does he live ?

A. In a town about twenty miles north of Wichita, my residence.

Q. Did you have any business arrangement or transactions with him at any time ?

A. No, sir.

Q. You never had any arrangement with him of any sort ?

A. No, sir ; I might explain there. I see in the testimony, since it has been reported, that he swears I was about to buy a town share in a town he was starting there. At the time of my canvass in the county I agreed to take a share in case I was able to do it, but the town never amounted to anything, and the shares were \$145 a piece, and the stock was watered too much, and I would not take any stock in it. I see he makes the excuse there that I had not the money.

Q. Let me ask you, without pretending to pry into your private affairs, except for the purpose of this investigation, what were your cir-

cumstances during the fall of 1870, at the time you went up to that legislature?

A. Well, sir, I have all the while been in pretty good circumstances; I was then, and am yet.

Q. Did you tell Mr. Floyd, in any conversation, that you were not able to comply with any engagement because you had not \$100 to your name?

A. No, sir.

Q. After you went back to your county from the legislature, did you increase your business to the amount of \$1,500 or \$2,000?

A. No, sir. I merely took a partner in my business that had capital.

Q. What was your business?

A. Real-estate brokerage.

Q. Do you know Chester Thomas?

A. Yes, sir.

Q. Did you tell him that he was authorized to go to the friends of Mr. Caldwell and tell them they could get a vote for \$800, but not to tell them whose vote it was?

A. No, sir; I never had any such conversation with him.

Q. Are you aware that he swore to this?

A. Yes, sir; and I met him since and he said it was not there as he stated it, and I suppose when he comes he will state the same thing to you.

By Mr. TRUMBULL:

Q. You commenced to say that your vote seemed to be determined by the removal of the land-office?

A. Yes, sir.

Q. Was there any agreement that the land-office was to be removed if you voted thus and so?

A. Well, sir, my people were deeply interested in the removal of the land-office to Wichita, and several came to Topeka to the legislature to guide my vote right in the matter, and I myself saw the different candidates and parties. I saw Mr. Crawford first and asked him upon the subject——

Q. You need not go into that particularly.

A. I will state, however, that the testimony as reported in this book is not as I gave it. It is not all there. It is not more than just that I should state it.

Q. Go on, and make your statement.

A. In this book [the report of the joint committee of the Kansas legislature] it shows that Mr. Crawford did not make any promise for the land-office in case I voted for him. I stated before that committee that he did make the promise that he would if elected aid to remove the land-office to Wichita. This book shows that Mr. Clarke said he would be in favor of removing the land-office because he believed it was a proper place. My testimony was that he promised to remove it if I would vote for him, and, if he was not elected, that the remaining time he had in Washington here he would be in favor of removing that land-office to Wichita.

Q. In favor of it, any way?

A. Yes, sir, if I would vote for him; and I told Chester Thomas and Mr. Clarke I would support him on that promise; and I would have supported him in good faith, but I learned from Mr. Friend, the representative from Butler, that he had promised for his vote to remove this same land-office to El Dorado, another town. [This is part of my evidence

also before that committee. I immediately told Mr. Clarke's friends that I would not support him; one man in particular, D. W. Houston, elected marshal of our State. Houston was a warm friend of Clarke, and wished me to vote for him. I told him what I had learned, and that I would not vote for him, although I had promised him I would. He told me to sit in the room until he could go and see Clarke, and that Clarke would not tell him a falsehood, and if Clarke said he would remove that land-office to Wichita, I could depend on him; and if he told me he would not, I could act on my own pleasure. He came back and told me that you [to Mr. Sidney Clarke] told him you were under obligations to the people of Augusta, and could not remove it from there, and I did not vote for Mr. Clarke.

Q. Whom did you vote for?

A. For Mr. Crawford.

By the CHAIRMAN:

Q. For whom on the second ballot?

A. Mr. Caldwell.

By Mr. TRUMBULL:

Q. How came you to do that?

A. I interviewed Mr. Caldwell on that same subject.

Q. What was your agreement with him?

A. I sought an introduction to him at his room, and Mr. Caldwell told me in these very words, that he would not make any direct promise in regard to the land-office, but if he was elected he would look the matter over, and if he thought it would be to the best interests of the people of our district to remove it to Wichita, he would be in favor of it. Mr. Caldwell was elected, and came on to Washington and laid the matter before our Kansas delegation and the Commissioner of the Land-Office, Drummond, and the three contestants for the land-office had a hearing, and we made our statement the same night, and it was the unanimous decision to remove it to Wichita.

Q. You were willing to vote for Mr. Caldwell, a stranger, without any assurance that he would vote for this measure?

A. I was satisfied to vote for him on the statement that he would vote for it, if it was the interest of the people of the district.

Q. But from the other candidates you wanted the direct assurance?

A. Yes, sir; and I think if Mr. Caldwell had said that he would vote for it, whether or no, I should have doubted his word.

By the CHAIRMAN:

Q. I will ask you further in regard to Mr. Thomas; did you know Mr. Thomas had sworn that after this conversation about which I inquired a little while ago, he came back and saw you and told you that you had already sold out and had the \$500 in your pocket?

A. Yes, sir; I knew he swore that.

Q. Did any such conversation occur?

A. No, sir.

Q. Did you know that he had sworn that you then said to him, "I told you not to mention my name under any circumstances," and that you added, they were buying their way through anyway, and it made no difference how much money you got?

A. Yes, sir; I have seen the printed report. There was no such conversation.

By Mr. CROZIER :

Q. You have said that a portion of your testimony given before the committee at Topeka was omitted from this publication. State upon whom that portion excluded reflected, if anybody; or whom it sustained, if anybody.

A. Well, sir, the only reflection was upon the promises of Mr. Clarke.

By Mr. CLARKE :

Q. In reference to the land-office ?

A. Yes, sir.

Q. And you have stated that ?

A. Yes, sir.

By Mr. CROZIER :

Q. The part in which you stated about that conversation with Mr. Clarke in reference to the land-office was omitted ?

A. Yes, sir.

Q. You say that Mr. Clarke offered to remove the land-office if he could, provided he was elected, and if not, he would exert himself during the remainder of his congressional term for it ?

A. If he was elected, he said, he would surely do it.

Q. Was there any other consideration mentioned by Mr. Clarke for your vote ?

A. No, sir.

By Mr. CLARKE :

Q. You regarded the question of the removal of this land-office as a question of public policy, not of private interest ?

A. Of public policy.

Q. You thought it would better accommodate the people of the district at Wichita than at Augusta ?

A. Yes, sir.

By Mr. CROZIER :

Q. Have you had any conversation with Mr. Clarke upon the subject of this election since the time you testified at Topeka, or since the senatorial election ?

A. Yes, sir; I believe Mr. Clarke was in our town some time in August last.

Q. What occurred between you ?

A. Well, sir, Mr. Clarke came down and desired an interview, personally, with me, in order to settle our difficulty, and let by-gones be by-gones, and have no more trouble, as I was a candidate for delegate to the convention to nominate members of Congress. I refused an interview. He also sent Mr. Griffenstein and Mr. English to ask an interview, to whom I also refused.

Q. Who are those gentlemen you mentioned ?

A. A couple of his democratic friends in Wichita.

Q. What did you understand him to mean by "letting by-gones be by-gones?"

A. My understanding of the conversation at that time was that if he could secure delegates enough to secure his nomination——

Mr. CLARKE. I would inquire what this has to do with this examination.

The WITNESS. My understanding, from the conversation, was this : that if Mr. Clarke could secure delegates and succeed in getting the nomination last fall for Congress, this whole matter of the prosecution in this case would be stopped.

By Mr. CLARKE :

Q. You do not mean to swear that I had any conversation with you individually at that time ?

A. Yes, sir ; indeed I do. You requested a conversation with me at the Douglass House.

Q. Did you have the interview with me ?

A. No, sir ; I did not have any.

Q. Did you understand that from me or the gentlemen who called upon you ?

A. My understanding is from your conversation—your conversation with them requesting me to appear there, that in case you succeeded in getting the nomination for Congress, this Caldwell matter would all be stopped.

Q. Did they explain how it was possible for me to control the action of the Senate in the matter ?

A. No, sir.

By the CHAIRMAN :

Q. Why was this intimation made to you that if this thing could be abolished the Caldwell investigation would be stopped ; what interest had you in stopping the Caldwell investigation ?

A. I had none at all.

Q. Did they suppose you had an interest in it ?

A. No, sir, not that I know of ; but it was creating a great talk in the State and through the United States, and every citizen of Kansas feels the disgrace.

Q. What was the argument to you that the Caldwell matter should be stopped ?

A. I do not know what the argument was. Every citizen in my county knows that that book contains evidence going to show that I sold my vote for money, and whether they believe it or not I do not know. I do not think they do, because I was elected to office by a larger majority than any other republican in the county, but it may have been that that caused them to approach me in that manner. Another thing—Mr. Clarke and I have opposed each other ever since my introduction to politics in our State.

WASHINGTON, *January* 13, 1873.

THOMAS L. BOND sworn and examined.

By the CHAIRMAN :

Question. Where do you reside ?

Answer. Salina, Kansas.

Q. Were you a member of the legislature which elected Mr. Caldwell ?

A. Yes, sir.

Q. Of which house were you a member ?

A. The lower house.

Q. Did you go there at the beginning of the session as the friend of any particular candidate ?

A. I was elected a representative from Montgomery County, and immediately after my nomination I wrote to Sidney Clarke that if elected

I should support him for the Senate. I went to Topeka with the expectation of supporting him for United States Senator.

Q. When did you change your mind?

A. When the members of the Clarke caucus all agreed to support Mr. Caldwell.

Q. You voted for Mr. Caldwell?

A. I voted for Mr. Clarke on the first ballot.

Q. In the joint convention?

A. Then I voted for Mr. Caldwell. We had a caucus after the first ballot on the first day, a caucus of members who voted for Mr. Clarke, and in that caucus we endeavored to make arrangements with the other caucus, known as the anti-Clarke caucus, which was in the interest of Governor Crawford. We were endeavoring to make arrangements with them to nominate a man for United States Senator opposed to Mr. Caldwell. Mr. Clarke was present at the caucus, and after some speeches being made by all parties, and after a delegation had been sent to the Crawford caucus, they refused to withdraw their candidate. The proposition was to withdraw Mr. Clarke and Mr. Crawford, and select a third man. They refused to withdraw their man and nominate anybody that we nominated. The caucus was adjourned until nine o'clock in the morning, at which time the caucus of Mr. Clarke's friends was held in his room, and in which it was agreed to support Mr. Caldwell for United States Senator. Mr. Clarke first brought in Mr. Caldwell and introduced him to us. Mr. Caldwell made us a little speech and then retired, and we then by a vote, with the exception of one, agreed to support him. Mr. Reynolds, I think, was the only one who made any remark. He said we had been sold out. The only man I remember of not voting for Mr. Caldwell was Mr. Irwin.

Q. What do you know of the use of money by Mr. Caldwell or his friends to secure votes?

A. I do not know of any.

Q. Was any offer ever made to you?

A. No, sir.

Q. Directly or indirectly?

A. No, sir.

Q. Was no intimation held out to you by him or his friends that you could get money by voting for him?

A. No, sir.

Q. Did you state to Mr. Clarke, or in his presence, that you had been offered money by persons upstairs, meaning the Caldwell party?

A. I never said any such thing to Mr. Clarke.

Q. Did you tell Mr. Clarke, a short time before the election, that you had been offered \$3,000 to vote for Mr. Caldwell?

A. I never did.

Q. And that a part of the money had been shown to you?

A. I never did.

Q. Do you know D. M. Adams?

A. I do.

Q. Is he a reputable man?

A. I always considered him as such until I saw the testimony he gave before that committee.

Q. Does he bear a good character?

A. He does.

Q. Do you know he swore that he heard you say in Mr. Clarke's room that you had been offered \$3,000 in cash to vote for Mr. Caldwell by a friend of Mr. Caldwell?

A. Yes, sir; and I know it is not true. I know I never had any conversation with Mr. Clarke on that matter in the presence of Mr. Adams.

Q. You are register of the United States land-office?

A. Yes, sir.

Q. When were you appointed?

A. In May, 1871.

Q. By whose influence?

A. By the influence of Mr. Caldwell.

Q. Was that appointment assured to you in any way before the election took place?

A. It was not; I never asked Mr. Caldwell for the appointment until after he was elected.

Q. I am instructed to ask you whether, after Mr. Caldwell's election, you appealed to him to pay you \$3,000, or a certain sum of money that had been promised, and Mr. Caldwell proposed in lieu of that to give you this appointment?

A. It is not true.

Q. When did you first apply to Mr. Caldwell for that appointment?

A. I first applied after Mr. Caldwell was elected. Before I applied to him I went to Mr. Clarke to see about the appointment. Mr. Clarke, although defeated for the position, professed to have considerable influence here, and I believed he did; and I went and asked him if he could be of any service in securing me a position. He said he thought he could. After that I went to Mr. Caldwell, or perhaps it was the same day; it was after the senatorial election was over; but I simply told Mr. Caldwell I would like to have an appointment. He said he would see about it. I was after the appointment in the Humboldt land-office, not Salina. Mr. Caldwell said he would see about it. I went with the party to Leavenworth; we all went down together. I did not trouble Mr. Caldwell about the appointment, because I knew he was harassed considerably since his election, as a man naturally would be; but I knew after we had agreed to vote for him in the house I had said a few words explaining my views, and I had received assurances from him that he would attend to the interest of the settlers on the Osage lands, and assist us out, and champion the interests of the settlers against the interests of corporations or speculators; and just before Mr. Caldwell went to Washington I called on him and told him I would like to have an appointment in that Humboldt land-office, and have my brother appointed assistant assessor of internal revenue. He said he would see about it, and asked if there was anything else he could do for me, and I told him, no. I think that was the exact language.

Q. Was your brother appointed?

A. No, sir.

By Mr. TRUMBULL:

Q. Did you see Mr. Caldwell before the election?

A. I did.

Q. Did you have a private conversation?

A. Not exactly private; there were three members of the legislature, Mr. Reynolds, myself, and Mr. Manning, of Cowley County. Before the adjournment of the Clarke caucus we all saw Mr. Caldwell would be elected, and we called Mr. Caldwell down. It was about two o'clock in the morning, and we made a proposition to him that if he would promise to attend to the settlers on the Osage lands, these gentlemen being also representatives from that district, we would support him. He then assured us, and gave us a written assurance, that he would attend to

the interests of the settlers on the Osage lands. With that understanding we went into the house and voted for him.

Q. Have you that assurance in writing?

A. No, sir.

Q. Where is it?

A. It is somewhere in my papers. There were three copies of it. The gist of the thing was that he would attend to our interest there on the Osage lands, and get our time of payment extended if possible, and protect us in every way in his power as against corporations and speculators. We were afraid the land would be thrown open to private entry.

Q. How do you account for such testimony as that which Mr. Adams gives?

A. I cannot account for it, for I do not think I ever had any conversation with Mr. Adams in reference to this matter.

Q. Did you hear anything about money being used at the time?

A. There was talk. Every one of the candidates was accused of using money.

Q. Might you not have talked about it in his presence?

A. No, sir; I was perfectly astounded when I read that evidence and saw Sid. Clarke and Dan. Adams had said that. I give the gentlemen the credit of laboring under a misapprehension, but I cannot account for it.

By Mr. CLARKE:

Q. Do you know Colonel Joyce, associated with General McDonald in the internal-revenue department for Kansas?

A. Yes, sir.

Q. Did you meet him at Topeka?

A. Yes, sir.

Q. Did you ever state to him, or in his hearing, that you had been offered \$3,000 to vote for Mr. Caldwell?

A. I do not think I did.

Q. You do not think so?

A. No, sir; I am satisfied I did not—I know I did not.

Q. You know Colonel Joyce?

A. Yes, sir; I know him well.

By Mr. CROZIER:

Q. You said that after the caucus of Mr. Clarke's friends his friends agreed to go for Mr. Caldwell?

A. Yes, sir.

Q. Did they agree to go for Mr. Caldwell with the consent of Mr. Clarke, or against his protest?

A. I do not know that I understand you.

Q. Did the friends of Mr. Clarke agree to go for Mr. Caldwell with Mr. Clarke's consent, or against his protest?

A. Why, it was with his consent, of course.

Q. Did he say anything indicating that?

A. He made us a little speech about it. The other candidate, Sam. Crawford, had been fighting him, and he, as well as others of the caucus, determined that Sam. Crawford should not be Senator because he had been fighting us; and as between them we would have Caldwell; and Clarke himself introduced Caldwell into the Clarke caucus on the morning of the final ballot.

Q. Then I understand you that Mr. Clarke appeared before the delegation and requested them to vote for Mr. Caldwell?

A. That is my understanding. I do not know that he used that language. He made a speech as against Sam. Crawford, and in favor of Caldwell.

By Mr. CLARKE :

Q. Made speeches ?

A. I do not know as I said speeches. He made a speech.

Q. What speech ?

A. The morning of the joint ballot ; the night after the first ballot you made a speech to your caucus, and agreed to withdraw if they saw fit ; agreed that you should withdraw. You made a very proper speech to us, and we were all very well pleased with your remarks, because you agreed to draw out of the fight if we saw fit to take up somebody and run him against the other candidates. During the caucus several members of the caucus made speeches in favor of Caldwell as against Crawford, and it seemed to be the general opinion of yourself, as well as of anybody else, that if it came down to a fight between Crawford and Caldwell, we would go for Caldwell ; and on the morning of the joint ballot we had a caucus in your rooms, in which you introduced Caldwell, and made remarks and went out, and it met the approbation of everybody.

By Mr. CROZIER :

Q. What was the substance of those remarks of Mr. Clarke in introducing Mr. Caldwell, as to his wish in regard to how you should vote ?

A. I do not think he made any remarks on introducing him ; but all his remarks, after he concluded to withdraw, were to the effect that we should prefer Caldwell to Crawford, inasmuch as Caldwell had not fought him as Crawford had.

Q. Did the members of the legislature favoring Mr. Clarke understand Mr. Clarke as wanting them to go for Mr. Caldwell ?

A. Yes, sir ; it was voted in the caucus and Mr. Clarke made a speech.

By the CHAIRMAN :

Q. Do you know anything of an arrangement by which Mr. Caldwell was to pay Mr. Clarke's expenses ?

A. I do not know it, only it was rumored that Clarke had sold us out, and Caldwell had agreed to pay his expenses. I know nothing about it.

By Mr. CLARKE :

Q. Did you believe that I had sold you out and received pay from Mr. Caldwell ?

A. At that time I had a great deal better opinion of you than I have now.

Q. Do you believe it now ?

A. I most decidedly do. I believe now that you would have made arrangement with Mr. Caldwell, or anybody else.

Mr. CLARKE. I did not ask that question.

The CHAIRMAN. We can have no altercation here.

By Mr. CLARKE :

Q. Did you believe at the time that I had made the attempt and received the money from Mr. Caldwell ?

A. No, sir.

Q. Do you believe it now ?

A. I believe now you made the attempt ; I most decidedly do.

By the CHAIRMAN:

Q. If it was believed at the time by the friends of Mr. Clarke that Mr. Clarke had sold them out to Mr. Caldwell in the manner you speak of, how did it come that Mr. Clarke's friends voted for Mr. Caldwell? It takes two parties to make and carry out a bargain of that kind.

A. A good many voted for him because they saw he was going to be elected; I think that; it is just my suspicion.

Q. If Mr. Clarke had sold them out, it would take somebody to purchase?

A. Yes, sir.

Q. In that case, would they have any better opinion of the purchaser than the vender?

Q. I look at that matter in this way, Mr. Morton: Mr. Clarke had been there, and had, according to his own statements, been to great expense in attempting to secure his election to the United States Senate, and when he concluded to withdraw from the field, if he went to Mr. Caldwell and said, "I will use my influence with my members to get them to vote for you provided you will pay my expenses," I should decidedly think a great deal more of Mr. Caldwell if he would say "I will do so," than of Mr. Clarke for doing it.

Q. I was just asking for your opinion.

A. Yes, sir; of course; that is my opinion.

By Mr. CLARKE:

Q. How long have you been in this city?

A. I arrived here last night.

Q. Has Mr. Caldwell or any of his friends consulted with you about what your testimony would be before this committee?

A. No, sir.

Q. Or talked with you?

A. Yes, sir; they have asked me one or two questions, and I have told that I would say——

By Mr. CALDWELL:

Q. Mr. Clarke asked you if you had had any consultation with Mr. Caldwell or his friends?

A. Yes, sir; he did.

Q. State to the committee when you first saw me to-day.

A. Here in the committee room, since I arrived here.

Q. Have I exchanged one single word with you, except "how do you do," since you have been in the room?

A. Yes, sir; I think you said something else.

Q. What was it?

A. I think I sat beside you and talked with you three or four times; but as far as my saying anything to you about my testimony is concerned I said nothing about it. I will state that I asked Mr. Legate when I came here to-day, "Did Clarke have the cheek to go before that committee and say again I had told him I was offered \$3,000?" Legate said he had. I told Legate I should give my testimony again just as it was before.

By Mr. HILL:

Q. Did any one ever tell you, pending that election, that you could get any money for your vote if you wanted it?

A. Yes, sir; I think so. I think that was talked about. I think I had a conversation with one or two parties generally, members of the

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legislature, a general conversation. I do not remember particularly and positively. I think I testified before the members of the legislature to one conversation with Colonel Anthony.

Q. I see you did; was that a loose conversation, or was there anything serious in it? Did you regard it as an approach for your vote?

A. No, sir; Colonel Anthony was fighting Caldwell. The purport was that if money was offered me, or I should have money offered me, I should take it and then go for whom I pleased.

Q. Did he tell you that by going for any particular candidate you could get any sum of money?

A. That was not his object. He was trying to prove to me that I could make money out of the canvass by receiving money and then going and voting for somebody else.

Q. He was not trying to get your vote?

A. No, sir.

Q. But to apprise you that such things were going on?

A. I do not know that he knew any such thing was going on, but simply that was his suspicion.

At four o'clock and forty-five minutes p. m., the committee adjourned until to-morrow at ten o'clock.

WASHINGTON, *Tuesday, January 14, 1873.*

GEORGE W. WOOD sworn and examined.

By the CHAIRMAN :

Question. State where you reside.

Answer. I reside in Cherokee County, Kansas.

Q. Were you a member of the legislature of Kansas that elected Mr. Caldwell to the Senate?

A. I was.

Q. State what you know in regard to the use of money or corrupt means, or the offer of money, to procure votes for Mr. Caldwell.

A. I was offered \$2,000 to vote for Mr. Caldwell.

Q. By whom?

A. By Joel Thomas, of Lawrence.

Q. How long was that before the election?

A. It was the day before.

Q. The day before the first ballot, or the second?

A. The day before the first ballot was taken.

Q. Who is Joel Thomas?

A. He is a livery-stable keeper in Lawrence; or was at that time.

Q. State the circumstances.

A. Thomas came to the Ashbaugh House, where I was boarding. He took me up into my room, and asked me who I was going to vote for for United States Senator. I told him I did not know; I had not made up my mind. He commenced, and we had quite a little conversation over the matter. Finally he told me, "I will give you \$2,000 in money if you will vote for Mr. Caldwell." I remarked to him, "I am pledged to my constituents to not do it, Mr. Thomas, and I cannot do it."

Q. What else was said?

A. He told me, "You can have the money if you will cast the vote." I told him I should not do it. That was about the amount of the conversation between us.

Q. Did you tell him you had been offered a thousand dollars to vote for Clarke?

A. No, sir.

Q. Or any sum?

A. No, sir. I told him I had been offered a thousand dollars by a gentleman named Critz, who represented himself to be the treasurer of Jackson County.

Q. A thousand dollars to vote for Mr. Caldwell?

A. Yes, sir.

Q. What is that man's name?

A. Captain Critz. He told me that was his name. I was not acquainted with the gentleman at all.

By Mr. LOGAN:

Q. He was treasurer of what county?

A. He claimed to me that he was the treasurer of Jefferson County, Kansas.

By the CHAIRMAN:

Q. How did you finally vote?

A. I voted for Governor Shannon.

Q. Did you see anything more of Mr. Thomas?

A. I saw Mr. Thomas the day the ballot was taken.

Q. Did he say anything to you about it again?

A. He told me, "You had better vote; Mr. Caldwell is elected, and I will give you \$700." I said, "I am not on the market, Joel."

Q. Who is Joel Thomas?

A. A livery-stable man in Lawrence.

Q. Not in Topeka?

A. No, sir.

Q. Was he an active friend of Mr. Caldwell?

A. I do not know. I lived in the extreme southern part of the State and knew very few of his friends.

Q. He offered you \$700?

A. Yes, sir. He said Mr. Caldwell was already elected.

Q. But he would give you seven hundred still?

A. Yes, sir.

Q. What do you know of offers being made to other members of the legislature?

A. I do not know anything about it.

Q. Did any member of the legislature tell you he had been offered money?

A. They intimated it. They did not directly tell me.

Q. Who were "they?"

A. A man named Moore was one.

Q. Where was he from?

A. He was from the western part of the State—I forget the district and county. Lant, they called him; A. A. Moore was his name.

Q. Was he a member of the house?

A. Yes, sir.

Q. Did he intimate that money had been offered to him to vote for Mr. Caldwell?

A. He did not say who he had the offer for. He said I could get so and so much to vote, and "if you do not do it you are greener than I think you are."

Q. Did you ever have any talk with Mr. Caldwell about that time?

A. I went into Mr. Caldwell's room a time or two. I was invited to go and see him, and did so.

Q. Did Mr. Caldwell ever ask you to vote for him?

A. No, sir; I do not think he did directly. We talked over our affairs. I lived on the Cherokee neutral lands. Mr. Caldwell told me that if he was elected he would do all in his power for us.

Q. Do you know Mr. Len. T. Smith?

A. I know him by sight only.

Q. Did you know what he was doing there or what part he was taking?

A. I did not.

Q. Do you know George Smith?

A. I think not.

Q. Do you know a man named Anderson?

A. Tom Anderson?

Q. Yes.

A. I knew Tom Anderson very well.

Q. Did you have any conversation with him about your vote, or did he ask you anything about it?

A. I think not.

Q. Did Mr. Len. T. Smith?

A. No, sir.

Q. Or any other person?

A. No, sir; only Joel Thomas and Captain Critz.

Q. Did you have any conversation with Governor McDowell?

A. No, sir; I was not acquainted with him at all.

Q. What were your politics?

A. I was a democrat.

Q. Do you know Mr. Peckham?

A. Yes, sir.

Q. What part was Mr. Peckham taking there?

A. Mr. Peckham and myself urged the democrats to vote for a democrat, and they would not do it; and when we found out we could not get them to, we told them then each man should vote as he pleased; we should give a complimentary vote to Tom Fenelon, of Leavenworth, then a member of the house. He was a strong friend of Mr. Caldwell, and did not desire it; and it was not done.

Q. Was he a partner of Governor Carney?

A. Not that I know of. He is a lawyer in Leavenworth.

Q. Did Thomas tell you where he was going to get the money to pay you?

A. He did not.

Q. Did he tell you he had the money with him?

A. He just spoke like this: "If you will give me your honor that you will vote for Mr. Caldwell for United States Senator I will give you \$2,000."

Q. He proposed to give you the \$2,000 in advance of the vote?

A. Yes, sir; that is the way I understood it. He said, "If you will pledge me your honor, you will get that immediately."

Q. He did not say whether he would have to go and get it of somebody else?

A. No, sir.

By Mr. TRUMBULL:

Q. He did not intimate where he would get it?

A. No, sir; he did not intimate whether it was his money or not.

Q. How come he to make such an offer as that? Did he seem to have an interest in the election?

A. He did not show any interest more than to me. I was not around as much as some others, but I supposed from his conversation that he had an interest; but it was only a supposition.

By Mr. HILL:

Q. Did you see him in conversation with other members of the legislature?

A. Frequently; every hour of the day.

Q. Did he seem actively engaged about some business with them?

A. He did.

Q. Do you know of any other business he had with the legislature except that election?

A. I do not.

By Mr. LOGAN:

Q. How long had you known Mr. Thomas?

A. About ten years, I think.

Q. Where has he resided during all this time?

A. Most of the time, I think, in Lawrence. I lived in the country, on a farm, and every time I went into town I would go to Mr. Thomas's stable and talk with him.

Q. Has he been engaged in livery-stable keeping since he has been residing there?

A. Most of the time, I think.

Q. Do you know in whose interest he was acting at this time?

A. No, sir. I lived one hundred and fifty miles from there, and had not met Mr. Thomas for a year or two before.

By Mr. CROZIER:

Q. Do you know who Mr. Thomas was earnestly opposed to in that election?

A. No, sir; I do not know that.

Q. You said something about his saying to you, "Caldwell is elected now," and that he would give you \$700 to vote for him.

A. Yes, sir.

Q. Where did that occur?

A. In the capitol building, in the committee-room.

Q. About what time?

A. About eleven o'clock, I think. Before the final vote was taken.

Q. Just before the joint ballot?

A. Yes, sir.

Q. Did he show you any money?

A. He did not.

Q. When he offered you \$2,000 to vote for Mr. Caldwell, did he show you any money?

A. No, sir.

Q. Did he exhibit his pocket-book, or anything else?

A. No, sir.

Q. Did you know what his pecuniary circumstances were at the time?

A. No, sir; I did not.

Q. What reason did he assign for offering you \$700 after having stated to you that Mr. Caldwell was elected?

A. He did not assign any reason; he just came and said, "Here, Wood, I will give you \$700 to vote for Caldwell. He has got votes enough to

elect him; he is elected now." I said, "Then there is no necessity of my voting for him."

Q. Was anything further said?

A. I do not remember; there may have been, but if there was I do not remember.

Q. Do you say you had a conversation with Mr. Caldwell on the subject of your vote?

A. No, sir; Mr. Caldwell did not say anything on the subject of voting for him.

By Mr. CLARKE:

Q. Do you recollect of meeting me in the Tefft House on the day after the election?

A. I do not remember.

Q. Do you recollect placing in my hand a memorandum setting forth substantially that you had been offered \$2,000 for your vote?

A. I do not remember doing so.

Q. Perhaps I can refresh your memory. I think at the time to which I refer you were in company with a gentleman named O'Connor and Mr. Rucker, both residents of the Cherokee neutral lands, and the place I refer to was in the hall of the Tefft House, on the lower floor. The circumstances were, that you placed in my hands or possession, or some one of you, I cannot say which, a memorandum.

A. Well, I do not think I did, but I do not know what these other men did. They were friends of mine, as a matter of course, and were there at the time. There was but one member from the county at that time. I was the member. What these men did I do not know. I have no recollection of doing it.

Q. Have you no recollection of a memorandum or writing—a statement substantially like that which you have made to this committee at this time?

A. I do not, Mr. Clarke. It may have been so; I do not say it was not; but I do not remember it.

By Mr. CROZIER:

Q. Did any of Mr. Clarke's friends during the pendency of that election offer you \$2,500 or any other sum for your vote?

A. Mr. A. P. Clark, who told me he was a friend of Mr. Sidney Clarke, told me he would give \$2,000 in money and a \$500 saddle-horse if I would vote for Sidney Clarke.

Q. Who is A. P. Clark?

A. He is a gentleman. When I lived in Douglas County his farm and my own cornered, and I met him at Topeka.

Q. Was he a member of the legislature?

A. No, sir.

Q. Do you know whose friend he was?

A. He told me he was Sidney Clarke's friend.

Q. Did you see him more than one time?

A. I saw him every day, for probably a week, until after the election was over.

Q. Do you know whether he was interesting himself beyond what you have stated for the election of Mr. Clarke?

A. Not from my certain knowledge. I saw him taking members out and talking with them.

Q. Did you see him in conversation with the known friends of Mr. Clarke?

A. I could not state that, because I do not know who were the friends of Mr. Clarke actually.

Q. When he offered you the \$2,000 and saddle-horse, what was your reply?

A. I laughed at him, and said, "A. P."—I will go on and give it just as it took place, if the committee will not take offense, stating it just as I did to him—"A. P., I am not a Texas steer, and am not in the market; and when I get in the notion of selling I will come over and let you know; you needn't bother me about it."

Q. Do you know where this Mr. Clarke's quarters were?

A. In the Tefft House.

Q. Where were Sidney Clarke's quarters?

A. There. I was in and out, time and again.

Q. Did you ever meet this Mr. Clark in Sidney Clarke's room?

A. I am not sure.

Q. Do you know where his lodgings were with reference to Sidney Clarke's?

A. They were several rooms apart; but I only went out and in.

Q. Were they on the same floor?

A. I could not tell positively.

WASHINGTON, *Tuesday, January 14, 1873.*

JAMES PHINNEY sworn and examined:

By the CHAIRMAN:

Question. Where do you reside?

Answer. In Council Grove, Kansas.

Q. Were you a member of the legislature that elected Mr. Caldwell to the Senate?

A. I was.

Q. State what you know in regard to the use of money or offer of money upon the part of Mr. Caldwell or his friends to procure votes.

A. I do not know anything about it at all.

Q. Are you a brother-in-law of Mr. Columbia?

A. I am.

Q. Do you live near the town of Emporia?

A. Yes, sir; I live about twenty-seven or twenty-eight miles north of that.

Q. Is there a bank in Emporia?

A. Yes, sir.

Q. Had you a deposit in that bank?

A. No, sir; I never had any money in any bank except once in my life; \$200 is all I ever had in a bank in my life.

Q. Do you know Len. T. Smith?

A. I know him since I met him here. I never saw him to know him until I was introduced to him Sunday. I never spoke to him.

Q. Do you know Mr. Tom Anderson?

A. I am slightly acquainted; I got acquainted with him during the legislature.

Q. Did he have any conversation with you about your vote?

A. No, sir.

Q. Who did you vote for?

A. Mr. Crawford on the first vote, and Mr. Caldwell on the second.

Q. Was any offer of money or anything else made to induce you to vote for Mr. Caldwell?

A. No, sir.

Q. Directly or indirectly?

A. No, sir; when I got ready to vote for Mr. Caldwell I went and told him myself.

Q. Did you ever tell Mr. Clarke that you had received money for your vote, or had an offer of money for your vote?

A. No, sir; I never told him any such thing.

By Mr. HILL:

Q. Sidney Clarke?

A. I never did.

By the CHAIRMAN:

Q. Did you have any conversation with him on that subject?

A. He came to my room first in the Tefft House—I should say he came to the dining-room—where I and Major Stover, the senator from that county, were eating supper together, and wanted me to go to his room. I told him I would not do it; that he had men enough there to do his business without me, and I was not going. He wanted to know the number of my room, and also Senator Stover's room, and said he would come and see us, and he came there to see me, and made the same offer, as appears by my testimony before the legislature.

Q. What offer?

A. He offered to pay my expenses and secure me a position in the land-office if I would vote for him.

Q. Who made that offer?

A. Sidney Clarke.

Q. What did you say to that?

A. The question came up this way: He said he had depended on my vote and wanted to know the reason why I would not vote for him. I told him because he had neglected our part of the country; that we had supported him and been to great expense, and sent men to Washington to lobby to get our lands brought into market, and we had got tired of him and I should not support him any more. He seemed to be shocked as it were by electricity, to find I would not vote for him, and seemed to think he could not get along without me, and said I must vote for him and he would do anything to secure me—that he would pay my expenses and get me any position I wanted in the State; and I asked him if he would get me Mr. Aiken's position at Augusta, in the land-office. I did it because I understood the Augusta influence was trying to control my vote for Mr. Clarke. He said no, but he would get me the position in the Humboldt, Junction City, or Augusta land-office. He asked if that was satisfactory. I told him it was; and he left. He still further asked me if I knew any members that could be controlled to vote for him, and if so to fetch them to his room. He left.

By Mr. LOGAN:

Q. Did he tell you what that position was worth?

A. He said \$3,000, and that it had been offered to Mr. Maxon.

Q. What did you mean by saying it was "satisfactory?" What did you mean by "satisfactory?"

A. I meant to be free from him; not to talk with him about my vote; not to Mr. Clarke or anybody else.

By the CHAIRMAN:

Q. Did you know Mr. Hammond?

A. Yes, sir.

Q. Did you have any conversation] with Mr. Hammond about your vote?

A. Never a word, directly or indirectly. Mr. Hammond was my opponent for the position of legislator, and while in Topeka I do not remember of having any word with him.

Q. You never told him you had been offered \$1,000 for your vote for Mr. Caldwell?

A. No, sir.

Q. Nothing like it?

A. No, sir.

Q. Did you have any conversation with Mr. Simcock?

A. I did frequently.

Q. Did you say anything to him about your having an offer of money to vote for Mr. Caldwell?

A. No, sir.

Q. You are sure you never mentioned it to either of them?

A. I never mentioned it to any living soul in the world.

By Mr. CROZIER:

Q. You have given the reasons why you declined to vote for Mr. Clarke?

A. Yes, sir.

Q. Now state briefly the reasons that influenced you to vote for Mr. Caldwell?

A. The reasons that influenced me to vote for Mr. Caldwell were these: When I first got down there Mr. Crawford lived adjacent to our county. I had a talk with him, and found our interests were identical. I thought if we could elect a Senator from our own part of the country I would try, and I promised to vote for him on the first ballot, and did so. After we had a caucus that night, and I saw there was no possibility of agreeing upon anybody, and I had formed Mr. Caldwell's acquaintance and liked him, I concluded to vote for him; and the next morning I went to his room and told him I would vote for him, and he thanked me, and I walked out.

By Mr. CLARKE:

Q. You are reported in the evidence before the Kansas legislative committee as responding to this conversation about the land-office: "That is satisfactory." What did you mean?

A. I meant that the conversation was satisfactory, and that I did not want to be bothered with you any more. I wanted to be left free to vote as I had a mind to. I answered it in reply to your statement that you would do anything to satisfy me. Your proposition was satisfactory thus far—that I was glad to get rid of it. I did not want to talk any more about it.

Q. There is something about some one sending for your brother-in-law?

A. Not in my testimony. I think it is in your own testimony.

Q. Do you recollect saying to me that you had telegraphed for your brother-in-law, Mr. Columbia?

A. No, sir.

Q. Did you telegraph for him?

A. I did.

Q. And he came up?

A. Yes, sir. I can tell you the reason why.

By Mr. CROZIER:

Q. State why.

A. Mr. Shamleffer, a democrat from our place, very largely interested in the town of Augusta, was there in the interest of Mr. Clarke. He had formed a suspicion that I would not vote for Mr. Clarke, and he wanted to know if Mr. Columbia was coming up to Topeka. I told him I had received a letter from Columbia that morning, and he would come up the next week. He urged me to telegraph for him, and said he would telegraph him himself, but that he would not come for him, but would be more likely to come if I would telegraph him. I did so on that account and nothing else.

SATURDAY, *January 18, 1873.*

Hon. THOMAS CARNEY sworn and examined.

By the CHAIRMAN:

Question. State where you live, Governor Carney.

Answer. I live at Leavenworth, Kansas.

Q. You have been the governor of Kansas, I think?

A. Yes, sir, I was, from 1862 to 1864.

Q. State whether you were present at Topeka at the time Mr. Caldwell was elected to the Senate.

A. I was.

Q. Now, Governor Carney, I will ask you to state what you know in regard to the use of money upon the part of Mr. Caldwell, or of corrupt means of any kind, for the purpose of procuring his election. Go on and state now, in your own way, what you know in regard to it.

The WITNESS. I would like the indulgence of the committee for a moment to make a little personal explanation.

The CHAIRMAN. Is there any objection? I hear none. Go on.

The WITNESS. There are things that transpire in life between man and man that should be regarded as sacred, and that, no matter whether in friendship or in enmity, should not be revealed. I am sorry to say that things of a similar character occurred between Senator Caldwell, Mr. Smith, and myself; and I avoided going to Topeka before the legislative committee for the express purpose of not being called upon to reveal some such things; and I am sorry to say now that they have been revealed; that both the Senator and Mr. Smith have revealed things that it was agreed between us and God should remain strictly between us; and I relate to the things that were stated about myself; and that being so, I feel it to be my duty, and due to the facts and to justice, to state the whole of the facts in relation to that case.

Q. We do not consider you a volunteer witness at all, governor. It is a question between Mr. Caldwell and the Senate of the United States, in which you are here required under your oath to tell all you know. Proceed.

A. Some time, perhaps a week or ten days, previous to the meeting of the legislature at Topeka, on my return from New York, I was told by Mr. Scott, I believe, of Leavenworth, that Mr. Caldwell and Mr. Smith would like to meet me. I wish, before I go on, to say that I have

seen Mr. Smith's statement as published in the newspapers, and, if the report in the papers is correctly printed, it did not state the facts in reference to me.

Q. Go on and state the facts as you understand them, governor.

A. I met them at the First National Bank—met Mr. Scott, Mr. Caldwell, and Mr. Smith. Mr. Caldwell informed me that he was a candidate for the Senate.

Q. State at what time this was.

A. It was about ten days or two weeks previous to the meeting of the legislature at Topeka.

By Mr. ANTHONY :

Q. Where was this meeting?

A. At Leavenworth, Kansas, in the room of the First National Bank ; and he asked me if I could support him. In the first place, Mr. Smith asked me if I was going to be a candidate myself, and I said no, that now I was not a candidate, and did not expect to be a candidate. I said, "It is a question I am surprised at your asking. You have been with me all summer, in Texas and New York, for four or five months," and the thing had been talked about day after day, perhaps fifty times, and I had said that under no circumstances would I be a candidate, and I had taken no part in the election. He wanted my support for Mr. Caldwell. I said I could not promise that ; that I did not owe him any political support ; that I had been in public life and had been engaged in political contests, and a great many friends had been in them for me ; and if I owed anybody political service, it was to those who had assisted me in former contests, and that I could not promise him any support. He asked me then the question if I would prefer to support Mr. Clarke rather than him, (Caldwell,) as Mr. Clarke was a candidate. I said on some grounds I would, for the reason that there was a party in Kansas, many respectable people, who desired to see Mr. Clarke in the Senate, and I did not know of anybody who desired to see him (Caldwell) in the Senate ; that he had not any party, and no one was expecting him to be a candidate, so far as I knew. He assured me that it was not the case ; that they had been around, and had seen a great many members of the legislature, and a great many were for him, and so on, and said, now is the time for Leavenworth to get a senator ; that the candidate south of the river was not very important, not very strong, and a man might go in there with money and means and secure the election without any trouble. I replied to him that I did not think he had money enough to get the election ; that I did not think the legislature would do so much violence to the feelings of the people as to be influenced to that extent that would be necessary to secure his election or the election of any man north of the river. In order that you may understand it, I will state there is the Kansas River, which divides Kansas into what we call Northern Kansas and Southern Kansas. Mr. Pomeroy lives in Northern Kansas ; the largest half is south of Kansas River, and of course they would not willingly throw all the legislative power to one corner of the State. He said he knew that, and he was prepared to win that contest in any event ; that he had burned the bridges behind him, and was going in and was going to win the contest. He pressed the matter for me to support him. I told him that there was but one consideration in the world for which I could support him. He offered me patronage, Government patronage, and everything of the kind. I told him no ; I was not engaged in that sort of business myself, and no such allurements would be any inducement whatever to me. He

asked me what would be. I told him I had expended a great deal of time and means in former contests, and contributed cons every election, both State and national, for many years, and that I had spent a good deal of time and means in politics, in public life, and that if there was any inducement he had to offer to me it would have to be in dollars and cents. He wanted to know what it would be. I said if he would pay me fifteen thousand dollars, that I thought that I might be able to support him; that I did not know certainly, but would think about the matter, and take it under consideration. He said he would give it to me when he was elected. I said no, sir; I would not put it upon that basis. He said that he would not do it, and that ended the matter. The time for the meeting of the legislature came; he went up to Topeka. I did not go. I had made up my mind not to go near it. Toward the latter part of the week, (the legislature meets on Tuesday,) and the latter part of the first week, I got several telegraphs from Topeka to come up. Many personal friends of mine were there.

By the CHAIRMAN:

Q. That was after the legislature had met?

A. Yes, sir. I went up some time during the latter part of the week. The first evening I came, Mr. Smith called on me, and said that things looked very favorable; that there was no trouble in the world; if I would assist him, that Mr. Caldwell could be elected without any trouble in the world; that it could be done very easily; and he wanted to know if I would make the same offer, or take the sum I had offered to take. I told him it was a question I could not answer then; that I should first have to counsel my friends about the matter. The next day I called together the Leavenworth delegation, and there were three of that delegation for Mr. Caldwell, and the only votes that I know at that time he had in the legislature.

Q. How many were in that delegation?

A. Twelve. I think there were eight or nine met; the three for Mr. Caldwell did not attend the meeting, as I remember it. I laid before them the case; they had pressed me very much to become a candidate, and their friends did. I said to them that if I engaged in the contest with Mr. Caldwell in the field, it would result in the defeat of both, and they would go home disappointed, as they had done before. They insisted that I had the most strength and should be the candidate. I said there was no time to talk about that now; that Mr. Caldwell was a candidate; that he was very obstinate; that he would make the contest, no matter what it cost him, no matter what expense. I said, "You know, gentlemen, that it has been said, and Mr. Caldwell has told me, that he would have this election, if it cost him \$250,000." It was then publicly talked that such a sum would be used, if necessary, to gain that contest. I said, "I will not engage in such a contest. I had neither the means nor the disposition, and if I attempt it it will end in the defeat of both." When they parted, I called together other friends in the legislature and outside of it, citizens there. They wanted to know whether I would be a candidate. I said to them, as I had to the Leavenworth delegation, giving them a picture of the facts before us, that it would be of no use; that there was no motive for us to engage in such a canvass. It was so uncertain that, with the Leavenworth delegation divided, and with the large amount of means they would have to combat us, and the people there known to be willing to take such means, I could see no inducement for us to go into such a contest, and

I, for one, did not think it advisable to engage in it. They said they would call and see Mr. Caldwell. Some twenty-five or thirty members, friends of my own, members of the legislature, and others, called on Mr. Caldwell, and had a long interview with him. They came back and reported to me that they thought I had best let Mr. Caldwell have the field to himself; that he seemed very much determined, and talked very fair; and they advised that I had better let him have the contest and make no effort in that struggle; not be a candidate at all. They agreed with me. I then told Mr. Smith that I would accept his offer, and do what I could to assist in electing Mr. Caldwell. Mr. Smith then asked, as a favor, that I would take his note at thirty days for \$10,000; and he gave me his due-bill for \$5,000, payable when Mr. Caldwell was elected. It was understood, of course, that if Mr. Caldwell was not elected I was not to get that \$5,000. He gave me his note at thirty days for \$10,000.

Q. That was unconditional?

A. Unconditional; and I gave him a paper or an obligation that I would, under no circumstances, become a candidate, and that I would assist him all I could in the matter, and of course that, if I did not, I forfeited this money and my honor, and so on.

Q. Did that paper state that you would assist Mr. Caldwell—the paper that you gave Smith?

A. I think it did. My recollection is that, in consideration of expenses that have been incurred, and for services, I think that way. My recollection is, it was, “and that I promise to assist him.”

Q. You have not a copy of that paper?

A. No, sir; I have not. There never was but one copy. Mr. Smith had it. That was handed around and copied and shown to a good many persons afterward.

By Mr. ANTHONY:

Q. Could you repeat the words of it, or pretty nearly?

A. Well, I do not know that I could. It was simply an agreement that under no circumstances would I become a candidate, and that, in consideration of the expenses that I had incurred, or might incur, this was given.

By the CHAIRMAN:

Q. Which was it; that you might incur or had incurred?

A. Well, it meant both. It was very brief.

Q. Go on. You took Mr. Smith's unconditional note at thirty days for \$10,000?

A. Yes, sir.

Q. A due-bill, which was not to be paid unless Mr. Caldwell was elected?

A. Yes, sir.

Q. Go on from that point.

A. That is about all there was of that.

By Mr. ALCORN:

Q. You stated a while ago that, when addressing that committee at Leavenworth, you reminded them of the fact that Mr. Caldwell had stated that he would have the election if it cost him \$250,000; that—I understood you to say—that Mr. Caldwell had made a statement to you.

A. Yes, sir, he did.

By the CHAIRMAN:

Q. Did they pay you anything more besides that?

A. No, sir.

Q. Was that money paid to you?

A. Which?

Q. The \$15,000.

A. The \$10,000 was paid to me at the maturity of the note. The \$5,000 was not paid to me until some time last spring.

Q. Were both those notes signed by Mr. Smith?

A. Yes, sir; Len. T. Smith.

Q. Did Mr. Caldwell sign either?

A. No, sir.

Q. Was he present when they were given?

A. No, sir.

Q. Did he know about their being given?

A. The only reason I have to believe or know that he did know about it was this: he was present at the first interview when it was talked about, previous to the meeting of the legislature.

Q. When the \$15,000 was offered?

A. Yes, sir; and declined. He was present at that interview, as I have said, and after his election——

Q. Were the subsequent negotiations at Topeka, which resulted in these notes, between you and Mr. Smith exclusively?

A. Yes, sir, exclusively; but after the election, when Mr. Caldwell was on his way to take his seat for the first time, I came on with him as far as Saint Louis, and in the car he was talking about it, and said, "I am aware that you hold Mr. Smith's due-bill, and as soon as I get East, to Philadelphia, I will remit you the money for it."

Q. You held two bills then, did you not?

A. No, sir.

Q. Had the \$10,000 been paid?

A. I sold that \$10,000 note.

Q. Was that note due at the time, or over-due?

A. I think it was due—I think it was paid.

Q. Paid at maturity?

A. I think so—due and paid.

Q. Who got that note from you?

A. I sold it to Scott & Company.

Q. Bankers?

A. Yes, sir.

Q. He said as soon as he got here he would pay you the \$5,000?

A. Yes, sir.

By Mr. ANTHONY:

Q. When you sold it, do you mean that you had it discounted at the usual rates?

A. I had it put to my credit for so much.

Q. Was any more discount on it than on ordinary paper?

A. No, sir.

Q. Just like ordinary negotiable paper?

A. Yes, sir; he said that as soon as he got to Washington, or East, to Philadelphia, he would send me the money, and he expressed great gratitude.

By the CHAIRMAN:

Q. Did he send you the money?

A. No, sir.

Q. Did you have any further interview on the subject of that \$5,000?

A. I had several. I came on here myself some time in the spring. I spoke to Mr. Smith about it, and he said the matter should be fixed up very soon; and that it was for Mr. Caldwell to pay. Congress adjourned and Mr. Caldwell came out to Kansas. After Congress adjourned I spoke to him again. Then he said it should be fixed up very soon; I think many times. The matter was talked about between him and me, and just before he started to Washington to take his seat at the second meeting of Congress I went to his house, and he voluntarily brought the matter up, and said as soon as he got East, or shortly after, he would arrange the matter through the Kansas Pacific Railroad, and send me the money; that they owed him, or should pay him some money.

Q. What did he say about the Kansas Pacific Railroad; how did they owe him money; what for?

A. He said that he felt that they owed him some money, and it would be to their interest to pay it, for they would get no legislation favorable to them until they did pay him if he could prevent it.

By Mr. ANTHONY:

Q. Did he say that?

A. He did say that.

By the CHAIRMAN:

Q. Did he say anything about an agreement on their part before the election to bear part of the expenses?

A. He said they were to pay him some money, and as soon as they did he would pay me that money.

Q. What were they to pay him that money for?

A. To assist him in his election.

Q. And they had not done it?

A. Yes, sir.

Q. And they would gain no legislation until they did?

A. Yes, sir; so far as he was concerned; that was it.

Q. What do you know about \$7,000 being paid to you, or your receiving a check for \$7,000 from L. T. Smith just before the election?

A. On the 23d, I think, of January, either the 22d or 23d of January, if I recollect aright, Mr. Anderson one evening came in the room what was known as the "committee-rooms," where they met to do their private talking, you know, and so on. Mr. Anderson came in there about dark and said he must have \$7,000 that evening—was obliged to have it. Mr. Smith replied it was impossible; he had not the money; that he could not do it, for he had not got it. Anderson said, if you will give me a check I think I can get the money. Smith gave him a check; I suppose he did; he sat at a desk and wrote him something on a blank check, and Mr. Anderson went out, and was gone, I should think, about fifteen or twenty minutes, and returned and said: "Mr. Smith, the parties say that ordinarily they would be glad to take your check for any amount you would give it for, but these are political times, and the party prefers to have a responsible indorser before cashing the check." Mr. Smith was very much provoked, and tore the check to pieces, and said the thing might go to the devil, or something of the kind. Mr. Anderson took him to a corner of the room and they talked some moments.

Q. Was that Mr. T. J. Anderson?

A. Yes, sir; Mr. Smith then came to me and asked if I would indorse

his check on Scott & Company for \$7,000. I told him, "Yes, with pleasure." He drew it to my order. I turned it over and indorsed it and handed it to Mr. Smith, and he handed it over to Mr. Anderson. Mr. Anderson went out and was gone some little time. He came in again with a package in his breast-pocket, wrapped up in a newspaper carelessly, a package perhaps two inches thick and six or eight inches long. He asked if there was anybody in the back room. I said no, I guessed not. The rooms were mine. I went to the door and saw there was nobody there, and he went in, and my recollection is that he laid the package down on the table in the room. I do not know what it contained, simply it was wrapped in a piece of newspaper.

Q. Did you not understand that it was a package of money?

A. I did not hear anything at all about it; simply it was a package about two inches by six inches.

Q. Did he say anything about the check to you?

A. He went and laid this package on the table, and, after the lapse of some half hour or more, he came in and said, smilingly, "Somebody has stolen that package; somebody has got that package in there," and Smith laughed, and he says, "I guess we had better not make any fuss about it. I guess we had better wait until after the election before we make any fuss about it;" that was all there was said about it.

Q. Do you say that money was not paid to you?

A. Never; not a dollar.

Q. You never received a dollar of it?

A. No, sir; I never did.

Q. In any form?

A. Not in any form.

Q. What did you understand was the purpose for which that money was obtained?

A. I do not know except it was generally for political purposes. My idea was it was for political purposes. I do not know of my own knowledge for whom it was got, or whom they paid it to.

Q. When he came in and said that the package had been stolen, did you understand that to be a jest?

A. I inferred it from the manner of the gentlemen.

Q. Did you ever hear anything more about that check during that election?

A. No, sir; I do not remember that I did.

Q. State what you know, if anything, in regard to the use of money in the purchase of votes, or the payment of the money to members of the legislature, on the part of Mr. Caldwell or any of his friends.

By Mr. ANTHONY:

Q. Mr. CHAIRMAN, before he leaves this branch of the subject, I would like to ask, was the \$5,000 memorandum or due-bill ever paid?

A. Yes, sir.

Q. When?

A. Last spring.

Q. By whom?

A. By Mr. Scott, of Leavenworth, Kansas.

By the CHAIRMAN:

Q. Scott & Co.?

A. Yes, sir.

Q. Did you leave the note there for collection?

A. No, sir; I handed it to a lawyer for collection, and Mr. Scott came home and settled it up.

Q. He came home?

A. Mr. Scott was East. When he returned from the East he came to see me and he paid it.

Q. You say Mr. Caldwell had repeatedly promised to pay that?

A. Yes, sir; a dozen times and places.

By Mr. CROZIER:

Q. Do you not recollect that note was paid through the First National Bank, that \$5,000?

A. No, I do not. What you refer to is, Mr. Scott gave me his own note for it, or obligation for it; that was collected in your bank, but not the original.

By the CHAIRMAN:

Q. What do you know of any payment to any member of the legislature? Do you know anything about it? State any circumstances that you know about as to the payment, or promise to pay anything, or anything that throws light upon that question.

A. Well, all I know is what a man would found upon belief, and hearing men talk, and by actions, and so on, that followed.

Q. Go on and state what circumstances you know, governor. It will be for the committee to draw their inferences.

Mr. CARPENTER. Suppose you call for any fact within his knowledge and not his belief.

The CHAIRMAN. I am asking for the facts upon which he might found a belief. It will be for us to determine how much weight we will give to it.

Mr. CROZIER. I suppose you do not intend that he shall give any statements of persons not at all connected with this transaction as a ground of his belief.

The CHAIRMAN. No, sir; not persons who were not shown to be connected with it.

The WITNESS. Well, some of the strongest reasons I have, of course, for thinking that money was used were, first, the fact that Mr. Caldwell had no status before the legislature; he had no status in Kansas as a politician when the legislature met; that when he went to Topeka there was scarcely anybody for him, or that recognized him to be even a respectable candidate, and the further fact that Mr. Caldwell has repeatedly declared that his election cost him a large sum of money.

By the CHAIRMAN:

Q. How much have you heard him say, if anything, that it cost him?

A. I have heard him say it cost him over \$60,000.

Q. When did he tell you that?

A. After the election.

Q. Over \$60,000?

A. I have heard him state that.

By Mr. ANTHONY:

Q. Did he tell you that he spent any money except that which you knew of?

A. Only in this wise: Mr. Caldwell said to these friends of mine, who called upon him, that if he was elected——

By Mr. CROZIER :

Q. Was that in your presence ?

A. No, sir. I only give this as rumor.

Mr. CARPENTER. We do not want rumors.

The WITNESS. Mr. Caldwell stated to me that if he was elected he would feel that he owed his election to myself and friends, and that anything that they wanted, or whatever in the way of his office that he could assist them to, they should feel free to call upon him, and he would do anything he possibly could. Some of them made such applications through me for this place or that place. I would send their letters to Mr. Caldwell, indorsing them, "This man I know very well is a good citizen, and he voted for you, and I will be much gratified to see him appointed to the office he asks for." On one or two occasions Mr. Caldwell came down and pulled out a blank-book out of his pocket, in which seemed to be registered the names of members of the legislature.

By Mr. CROZIER :

Q. Came down where ?

A. My office ; my place of business.

By the CHAIRMAN :

Q. After the election ?

A. Yes, sir. He would take out a blank-book, something like this one, (the witness' memorandum-book,) and say, "I do not owe that man anything. I paid that man for his vote. I do not owe him anything."

Q. Did he say he had paid that man for his vote ?

A. He did ; on some three or four occasions.

Q. Did you say bank-book or blank-book ?

A. A blank-book, a memorandum-book, such as a man would carry in his pocket for memorandum purposes.

Q. Did you see the entries or writing ?

A. No, sir.

By Mr. ANTHONY :

Q. Did you understand that he had paid him money, or office, or how ?

A. He stated as to one man Bayers ; that he had paid Bayers \$2,500.

Q. Did he state that to you ?

A. Yes, sir.

Q. At that interview ?

A. At one of the interviews that was had.

By the CHAIRMAN :

Q. Did he make that reply in regard to anybody else—that he had paid them for their votes and did not owe them anything ?

A. He did.

By Mr. TRUMBULL :

Q. How did you understand it, governor, when he said that he had paid them. how did you understand it at the time ?

Mr. CARPENTER. That is not competent.

Mr. TRUMBULL. I think that is an eminently proper question.

Mr. CARPENTER. I do not. It would not be permitted in a court of justice.

Mr. TRUMBULL. It would, I think, in any court of the United States.

The CHAIRMAN. What is the opinion of the committee ?

Mr. ALCORN. I think it is for the committee to draw the inferences.

Mr. LOGAN. I am willing for the chairman to decide the question.

The CHAIRMAN. I think it is proper for the witness first to state as nearly what Mr. Caldwell said, and what he did, as he can. I understood the witness to say that when Mr. Caldwell took out the blank-book and looked at his memorandum, and said he did not owe that person anything——

The WITNESS. That is what I stated.

The CHAIRMAN. That he had paid him for his vote?

The WITNESS. Yes, sir; I said that.

Mr. HILL. At that point, would it not be proper to ask whether the impression upon his mind, in the taking out of the book by Mr. Caldwell, was that it was to refresh his recollection, by recurring upon an entry in the book, as to whether he had settled with the particular person or not?

Mr. CARPENTER. If he states the facts, and all the facts and circumstances, there is not a court in the world that would permit a counsel to ask what impression did that make on your mind, because the jury are to judge that very thing. There is no better settled principle in law.

Mr. TRUMBULL. Mr. Chairman, I think we are not here exactly as a jury. This committee is composed of gentlemen who are not likely to be misled by testimony that is admitted by a rule a little more liberal than would be enforced by a court in a jury trial; but this witness testified, preliminary to his statement, that Mr. Caldwell said he had paid him in regard to offices. He was speaking in reference to appointments to office; after that he said, "I do not owe this man anything; I have paid him." Now, I think it is proper to ask the witness whether he understood that to apply to a demand for office, or whether it had application to a payment of money. I think that would be admitted in court.

The CHAIRMAN. I will ask the witness as preliminary question.

Q. When he took out his memorandum-book he said he had paid the member; was there any dispute at that time about this member having voted for him?

A. None whatever.

Q. Was there anything said about this member having received any office at his hands already?

A. No, sir.

Q. Had these members received any office?

A. No, sir.

Q. They had not?

A. No, sir.

Q. Do you know in what other way these members could have been paid, having received no office, unless it was by money?

A. I know of none, sir; I know of no other way.

The CHAIRMAN. I think the question asked by Senator Trumbull would not be admissible in a court. I think a court would say: "State what he said either in his words, or the substance of them, and describe the circumstances." A court would then leave the jury to draw their own inference. As this question is objected to, I hardly think it is necessary, under the circumstances.

Mr. TRUMBULL. If the committee so decide, I would like to have that go on the minutes fully, and I would like to have the views of the individual members of the committee.

Mr. HILL. I do not think it very material.

Mr. CARPENTER. As this matter may be important, and may come up

several times, I would request that the committee be cleared for consultation on that point.

The room of the committee was cleared for deliberation, and after some time spent therein, the door swere re-opened, and the chairman announced that the committee had decided that the question in the form put by Senator Trumbull was not proper.

By the CHAIRMAN :

Q. When he took out this memorandum-book, was there any delay or hesitation before making his statement that he did not owe that man anything and had paid him, as if he was hunting among several names ?

A. He cast his eye down the column of the book, and I think in one case he turned over a leaf and looked down the column before his eye struck the name.

Q. Did he take out this memorandum-book on more than one occasion to look for a name ?

A. I do not remember but the one occasion.

Q. Who was the man you were talking about at the time ? What member ?

A. I was trying to recall this morning. I could not satisfactorily to my own mind. I had the legislative list, but I have not seen it for some considerable time, and many names have passed out of my mind, and I could not satisfactorily answer.

Q. You could not tell what member it was ?

A. I could not.

Q. You spoke about his saying that he had paid a Mr. whom ?

A. Mr. Bayers. He said he had paid him \$2,500.

Q. How did that conversation come up ; were you asking for an office for Bayers ?

A. Yes, sir ; he wanted an office.

Q. What position did Mr. Bayers want ?

A. I think he wanted a position in the land-office ; it was in the land-office.

Q. Where did this conversation about Bayers take place ?

A. In Leavenworth, at my office.

Q. At the time he told you that he had paid Bayers \$2,500, did he take out his memorandum-book ?

A. I do not think he did. I do not remember that he did. I do not remember the circumstance but once. I remember it distinctly from the fact that it seemed to me very remarkable ; that it seemed from his manner, as he had the book, that he had the name of every member of the legislature down. It looked to me that the name of every man was there ; it looked that way to me. The whole manner of the conversation and the nature of the interview made me think so.

Q. Did he at any other time make any statement to you ?

A. No, sir.

Mr. CROZIER. Will the chairman ask the witness if he saw the page of the book and the amounts ?

The CHAIRMAN. He has stated that he did not see it.

The WITNESS. I did not see it.

By the CHAIRMAN :

Q. Did he at any other time make any statement to you touching payments to any members of the legislature ?

A. Yes, sir ; he told me he paid Mr. James F. Legate.

Q. Was he a member of the legislature ?

A. He was.

Q. He told you he paid James F. Legate a thousand dollars?

A. Yes, sir.

Q. When did he tell you that?

A. This was after the legislature had adjourned, or after the senatorial election, rather.

Q. How did he come to tell you that. What brought that up?

A. In a general conversation about the expenses of the canvass and the expensive men connected with it. It was stated by myself or somebody else present—for there were several; there were more than Mr. Caldwell and myself present at the time—"You will find Mr. Legate a very expensive subject for you." He said, "No, he had not been; he had not cost him but a thousand dollars."

Q. Did Mr. Caldwell say that Legate had cost him but a thousand dollars?

A. Yes, sir; and that he had not been expensive to him.

Q. Did he mention anybody else at that or any other time?

A. I do not remember that he did.

Q. Then you spoke of Mr. Bayers, this man whom you don't remember when he took out the book, and Mr. Legate are the only three persons he spoke of paying?

A. Yes, sir; all I can remember or can call to mind now by Mr. Caldwell directly.

Q. Did you have any talk with Mr. Caldwell, or talk to him at any time in regard to his paying members to vote for him?

A. The only talk that I ever had on the subject was, or the only talks—for I think I had two talks with him—were, one which I remember distinctly—and I think I had two, if I recollect aright—and one when Mr. Smith gave me this note and this promise for these \$15,000, I have told you about. Mr. Smith replied that he had involved himself to such an amount for Mr. Caldwell that he was alarmed, and that he was fearful that Mr. Caldwell would go back on him, or would not recognize, or not make it good, and he said he would not go any further until he had seen Mr. Caldwell and knew how he felt on the subject.

Q. That was the \$15,000 transaction?

A. That was after he promised me that.

Q. After that negotiation was completed?

A. Yes, sir. He asked me then to go and see Mr. Caldwell. Mr. Smith and myself went to Mr. Caldwell's room. Mr. Smith said to Mr. Caldwell that he had involved him to the amount of about \$40,000.

Q. Mr. Smith stated to Mr. Caldwell that he had involved himself?

A. He said, I think, "I have already involved you to the amount of about \$40,000."

By Mr. HILL:

Q. Involved Mr. Caldwell?

A. Yes, sir, involved Mr. Caldwell; and, says he, "Now you must not be alarmed; you must expect to expend money in the beginning of this contest; that is to get a status before the legislature. You have got to lead the other candidates in the preliminary vote; and if you have not nerve and courage enough to do that, you had better withdraw from the canvass. That had to be done." Mr. Caldwell wanted to know how much it would take, how much he thought it would take to do it, and Mr. Smith said he did not know. I do not remember that he stated it. He asked me. Well, I said to him I thought he might do that for the sum he expected to expend, or had proposed, or maybe for

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a little less than that sum, which was a quarter of a million of dollars. That seemed to startle him, and he said he was not prepared to do anything of that sort. Mr. Smith replied that was all nonsense; that it would take but a small sum more; and if he did not make it succeed, he said, "If you will let me go on and have my own way, and I do not make it succeed for you, I will pay half the expenses myself." Mr. Caldwell said, "Len, that is fair," and slapped him on the knee, "Go ahead, and I will stand by you." I think that on another occasion that Mr. Smith asked me to go with him again, and I went the second time, and what occurred was similar.

Q. Did Mr. Smith want you to be a witness of his arrangements with Mr. Caldwell?

A. I do not know what his purpose was. I supposed at the time that he wished me to state to Mr. Caldwell that, if he had nerve, and was willing to expend enough, he could be elected. I suppose that was the object. He did not state what the object was.

Mr. CROZIER. Will the chairman have Governor Carney fix the precise time of that interview?

By the CHAIRMAN:

Q. State when this interview took place.

A. That interview took place the day Mr. Smith gave me the note, which was some three or four days after I went up to Topeka—somewhere from three to five days.

Q. How long before the first vote?

A. Fully a week. I should say it was fully a week, from the best of my recollection.

Q. Governor, state to the committee what, if anything, you heard Mr. Len. Smith say in regard to the expenditure of money in that election at any time while it was going on.

A. Well, I heard him on a great many occasions, when Mr. Anderson would come in and report that he wanted some money—that he must have some money for this or that purpose—Smith saying that he could not get it; that he had got all the currency that the banks had there at Leavenworth; that he had sent for some, and some would be along pretty soon; and he said, "You must tell the fellows they must have a little patience; that the money will be here in a day or two," and so on.

Q. For what purpose did Mr. Anderson ask this money?

A. Well, that certain gentlemen wanted the money.

Q. Was the gentleman a member of the legislature?

A. That members of the legislature wanted their money, some of them; that is what Anderson stated.

Q. How much money?

A. Sometimes he would want \$1,000, sometimes \$500, sometimes \$2,000 or \$3,000.

Q. Was Anderson then speaking of members of the legislature?

A. Yes, sir.

Q. This occurred from time to time?

A. Yes, sir; day by day.

By Mr. ANTHONY:

Q. That is, he said he wanted a certain sum to buy the vote of a certain man?

A. That he would have to use a certain amount on certain parties. That you may understand this, Mr. Anthony, Mr. Anderson, as I understood it—all this thing was done in the room or rooms I occupied there,

my front room; there was a committee-room—Mr. Anderson would come in and report to us. Mr. Anderson was employed expressly by Mr. Smith and Mr. Caldwell to visit certain men and see all the men he could.

Q. Members of the legislature?

A. Yes, sir; members of the legislature, and to see what would induce them to vote for Mr. Caldwell, if not by one way, by another way; of course if they could not be persuaded, then to say how much money they would take to do it, and he would come in and report. There were other men doing the same thing.

By the CHAIRMAN:

Q. What other men?

A. I think Mr. McDowell.

Q. What McDowell?

A. James L. McDowell did something of the kind, too. He made reports to this committee, I know.

Q. What were his reports?

A. He made but very few reports. He made some reports to the committee of a similar character to those of Mr. Anderson.

Q. Did he report to the committee that certain men had been paid, or how much they would have to be paid?

A. He did. He made such reports.

Q. Was his report to the effect that this man or that man or the other man could be had for so much?

A. Yes, sir; to that effect.

Q. What was said in response to that—that the money should be paid?

A. Well, I do not know that it was. Sometimes there was the response that the parties would have to wait; that they had not got it, and so on, and so on. Of course any arrangement of that sort was not made public in the committee-room; that was done in a more private way than that. All I heard was what was done in a general way before the committee.

Q. What committee do you speak of?

A. There was Mr. Len. Smith, Mr. James L. McDowell, Mr. William Spriggs, Mr. Thomas A. Osborn, and Frank Drenning, I think, was there at the time.

Q. They were the committee?

A. Yes, sir.

Q. You spoke about the committee-room; was that the place where these gentlemen met?

A. Yes, sir.

Q. Was this a select body of Mr. Caldwell's friends who had the matter in hand?

A. They were men who were, of course, all favorable to Mr. Caldwell's interests.

Q. Were they a body of men meeting from time to time to consult?

A. Yes, sir; every night.

Q. To consult about securing the election?

A. Yes, sir.

Q. Did the different members report progress from time to time?

A. Yes, sir; that was the idea. They would come in, take the list, and check it off. This man would make his report, for instance, "I have seen this man; he has not been quite fixed; he asks too much; let him alone awhile; he will become cheaper after a while as he finds

we do not want votes; he will find it out and get cheaper." That sort of conversation went on from night to night.

Q. Do you say Mr. Len. Smith said upon occasions that they had paid out all the money they had, all the currency of the banks there?

A. Yes, sir; I heard him state that on several occasions.

Q. And that he had sent for some money?

A. Yes, sir.

Q. Did he state at any time how much money he had sent for?

A. No; I do not remember that he did. I heard him on one occasion state that the Kansas Pacific Railroad Company had just paid him \$10,000. I heard him state that.

By Mr. ANTHONY:

Q. Who stated that?

A. Mr. Smith stated to me that the Kansas Pacific Railroad Company had just paid him \$10,000; that he had some currency now.

Q. Was it a subscription or a donation?

A. He said they had given him that; they had just paid him \$10,000; that was the way he expressed it. I took it that they had given him that to aid in the canvass.

By the CHAIRMAN:

Q. I will ask whether Mr. Smith spoke of the money being donated to him by the Kansas Pacific?

A. No; he spoke of its being paid by the Kansas Pacific to assist Mr. Caldwell in the contest.

Q. Did he speak of it as money given by the Kansas Pacific, or money that he had borrowed, and for which he had been made responsible?

A. He spoke of the money as being given.

Q. Did he say anything in any of these conversations about the \$7,000 check given to Mr. Anderson?

A. He never referred to it.

By Mr. ANTHONY:

Q. How was this committee constituted or appointed? Was it self-appointed, or how appointed?

A. Mr. Smith, I think, was the head of it. I think such men participated in the committee as Mr. Smith invited and requested.

Q. And they were the same men all the time?

A. Yes, sir.

Q. Was this committee-room private or public?

A. Private; that is, it was private while the committee was in session; it was a room that people would come into during the day, but not when the committee was there.

Q. Was the door locked when they sat?

A. Yes, sir.

By Mr. LOGAN:

Q. Were you a member of that committee?

A. It was in one of the rooms that I occupied. I was there part of the time.

Q. It was in a part of your room?

A. Yes, sir; I was present on a good many occasions.

By Mr. ANTHONY:

Q. Were you present at the secret meetings of the committee?

A. Yes, sir.

By the CHAIRMAN:

Q. Were you taken into the confidence of Mr. Caldwell and Mr. Smith in this matter?

A. I suppose I was.

Q. Was anything concealed from you as you thought at the time?

A. I do not know that there was. I did not want to know. My object was to know as little as possible. I did not wish to know.

Q. Did they ask you to, or did you see any person about voting for Mr. Caldwell?

A. I talked a good deal among members myself. They asked me to do so to my own personal friends.

Q. Mr. Smith and others asked you to do that?

A. Yes, sir; Mr. Caldwell asked me to do that, too.

Q. I will ask you whether, in any of these conversations with your friends, there was anything said to you, or by you to them, in regard to their being paid for their votes, and, if so, what was it?

A. I remember on some occasions that when I was talking to my friends about their helping us, as we called it, to elect Mr. Caldwell, they said that it was understood that everybody was being paid for their votes, and they said that they had got to go home and defend their action before the people; that their people did not expect Mr. Caldwell to be the Senator, and they would have to go home and defend themselves and their record at home, and they could not afford to do it for nothing, and if Mr. Caldwell was willing to pay them for it, they were willing to do it. I said to them I had no authority to talk about any money; that if they wanted any money, I was not the person to talk to upon that subject.

Q. Did they mention specific sums to you, any of them, that they would require?

A. I do not think they did except in a general way; that they understood Mr. Caldwell was there with large sums of money and was paying for votes.

Q. Did you represent to this committee, to Mr. Len. Smith and others, what these persons said?

A. I presume I did.

Q. I will ask whether Mr. Smith or Mr. Anderson would then go and see these persons. Was Mr. Anderson the man to visit members who talked in that way?

A. He was the man to do it. Whether he did it or not, I cannot say; it was so generally understood. He was the general man in that way.

Q. Was it said at the time you reported your conversations with these gentlemen that anybody should see them?

A. Yes, sir.

Q. Who was the person to see them?

A. Well, sometimes one, sometimes another; mostly Mr. Anderson was the person.

Q. Was Mr. Smith to see any of them?

A. Yes, sir; he was.

Q. He was to see these persons who talked in this way, and said they could not afford to go home and defend themselves, and take the responsibility, without being paid for it—these men that were to be seen?

A. Those, I suppose, in connection with others; that he was to see these particular or special men, I could not state of my own knowledge. I can only state it in this way: for instance, I would make a report and you would make a report of how many you had seen, and

then, of course, they were ranged off as to who should see these men, without referring to whether you or I had talked to them before.

By Mr. ALCORN :

Q. Was there any memorandum taken of the names given by you ?

A. Of course they were called off and checked ; the list of the legislators was called off and checked.

By the CHAIRMAN :

Q. State whether you had subsequent conversation with any of these members after they had been seen ?

A. O, yes ; I saw them frequently. Some would say they had concluded to vote for Mr. Caldwell.

A. Did any of them subsequently state to you that they had been paid or would be paid ?

A. I do not remember but one or two occasions of that kind. There was a man by the name of Williams, who seemed for a long time to be in doubt and hesitancy as to what his duty was in the matter. He came to me, and asked me if I regarded Mr. Smith (L. T. Smith) as a reliable man. He said that he had concluded to vote for Mr. Caldwell, and Mr. Smith had promised him some money, and asked me if I thought Mr. Smith was reliable. I said I thought he was perfectly.

Q. How much did you say Mr. Smith had promised to pay him ?

A. He did not name any sum.

Q. Is that the only one who told you he had been promised money ?

A. It was.

Mr. CLARKE. Excuse me, Mr. Chairman, but there were two Williams in the legislature. Will you ask the witness which one it was ?

By the CHAIRMAN :

Q. Which Williams was it ?

A. The one from Johnson County. I remember no other case. There was a man by the name of Butler, from Coffee County, and Mr. George Smith, a member of the firm of Enstein, Smith & Co., of Leavenworth, told me.

Mr. CROZIER. I suppose that is not competent.

The CHAIRMAN. I think there has been testimony here to show that George Smith was there as a friend of Mr. Caldwell, operating for him, which I suppose would lay the foundation for asking what Mr. George Smith said.

Mr. CROZIER. It has not been said that he was a member of the committee.

By the CHAIRMAN :

Q. Who was George Smith ?

A. He was a merchant of Leavenworth.

Q. Was he present at Topeka in this election ?

A. Yes, sir.

Q. What was he doing ?

A. He was taking a very active part for Mr. Caldwell.

Q. Was he one of Mr. Caldwell's confidential friends ?

A. He seemed to be.

Mr. CROZIER. May I ask a question here ?

The CHAIRMAN. Proceed.

By Mr. CROZIER :

Q. Did you ever see him in conversation with Mr. Caldwell ?

A. I saw him about his quarters there at Topeka.

Q. Were there not a good many there from Leavenworth and interesting themselves?

A. Yes, sir.

Q. Were there not others, besides this committee and George Smith, who were very active?

A. Yes, sir; forty or fifty persons.

The CHAIRMAN. I put the question whether the witness should be allowed to state what George Smith had said to him as before asked.

The committee directed the question to be put.

The WITNESS. George Smith told me he had arranged for Mr. Butler's vote; that Mr. Caldwell was to pay a note that Mr. Butler had given his firm for goods, some \$850; that he had arranged it. He made that report, that this committee could rely upon Mr. Butler's vote for Mr. Caldwell, because he had made that arrangement with him.

By the CHAIRMAN:

Q. An arrangement that Mr. Caldwell was to pay the note that Mr. Butler owed to Smith's firm?

A. Yes, sir.

Q. A note for \$850?

A. About that sum; I cannot be exact.

Q. Do you know whether that sum was afterward paid?

A. I do not.

Q. Did Mr. Butler ever say anything to you about it?

A. No, sir.

Q. Did you know Mr. Crocker, from Linn County?

A. I know there was such a member there.

Q. Did you know a Mr. Crocker there?

A. No, sir; I do not think I did.

Q. Did you hear anything said in this committee, or by Len. Smith, or George Smith, in regard to arranging with Mr. Crocker?

A. I heard Mr. Smith say upon one occasion, reporting to this committee, that there was one member who had sold them out—one party.

Q. Sold them out?

A. Yes, sir; and run off with the money.

Q. Who was that?

A. I do not think he stated. I afterward heard about Mr. Crocker.

Q. Did he state how much money he had paid to this man?

A. No, sir; I did not hear it.

Q. Len. Smith stated that one member had sold him out and run off with the money?

A. Yes, sir; something to that effect; in other words, that he had been disappointed in one man.

Q. Did you have conversations with Mr. Anderson in regard to paying money to members, or promises to pay?

A. Only in that committee, in a general way.

Q. Was Mr. Anderson taking an active part?

A. Very; a very active part.

Q. Did you know anything of any agreement between Mr. Caldwell or Mr. Len. T. Smith, and him to pay Mr. Anderson for his services?

A. I heard Mr. Smith say they had employed Mr. Anderson to assist them, and some time last spring, I should think, perhaps, in the month of April, though it may have been in May or in March, but some time last spring, Anderson wrote me a letter and asked me if I would negotiate for him his note for \$3,500, indorsed by Mr. Caldwell, or by Alex.

ander Caldwell, and said the note would be due in the coming October, that is last October. He said he held such a note, and would like to sell it, and I wrote him back that the time was too long.

Mr. CROZIER. Had he not better produce those letters?

By the CHAIRMAN:

Q. Where are those letters or that letter of Anderson?

A. It is at Leavenworth; I have it there at home. I can send you the letter if you want it.

Q. Did you afterward have any conversation on the subject?

A. I never saw him about it. He wrote me he wanted me to make that negotiation for him. I wrote him that the time was too long, that no bank would take it.

Q. Did you hear Mr. Len. T. Smith speak of any amount that was to be paid Mr. Anderson for his services?

A. I do not remember that I did.

Q. Did you ever hear anything about \$5,000 to be paid to Mr. Anderson?

A. I heard it, but I cannot call to mind from what source I heard it.

Q. Was anything said by Len. T. Smith or Mr. Caldwell in your presence, or before this committee, or in this committee, in regard to any sum to be paid to Mr. McDowell for his services?

A. No, sir.

Q. Do you know anything about any promise made to Mr. McDowell that he should have the post-office at Leavenworth or have the control of the appointment of postmaster at Leavenworth?

A. I do not. I simply know this: I was present when Mr. McDowell had an interview with Mr. Caldwell at one time during this election and before the election, during the canvass; that Mr. McDowell asked him, as a consideration for his support, if he would remove the then incumbent of the post-office, but I do not think Mr. McDowell named anybody or asked to have the control of it.

Q. What did Mr. Caldwell say in response to that?

A. He said it should be done.

Q. State whether you had any conversation after the election with Mr. Smith, in which Mr. Smith spoke of Mr. Caldwell's having fulfilled his engagements or not having fulfilled his engagements with him? I refer to Len. T. Smith—did he ever talk to you about whether Mr. Caldwell had carried out his obligations with him?

A. I do not think he did; I do not think that Mr. Smith ever claimed that there was any obligation, or anything, to carry out between him and Mr. Caldwell. I heard Mr. Smith complain on one or two occasions that Mr. Caldwell had not carried out his engagements with other persons, and had got himself into trouble by it.

Q. Who were the other people?

A. He meant people to whom he had promised money and had not paid it.

Q. Did he name any persons?

A. I do not remember that he did.

Q. What do you know, if anything, about an agreement during the pendency of this canvass between Mr. Caldwell and Mr. Clarke, by which Mr. Clarke's expenses were to be paid; and, if so, for what consideration?

A. I do not. All I remember about that was after the vote had been taken in the different houses.

Q. The separate vote in the senate and the house?

A. Yes, sir.

Q. Before the joint convention?

A. Before the joint convention—that it was generally understood and talked that Mr. Clarke and Mr. Caldwell had better come together; that Mr. Caldwell had better see Mr. Clarke. In the evening, about dusk, Mr. Smith came into the room very much excited, and wanted to know where Caldwell was.

Q. Was this before that joint convention?

A. Yes, sir; it was to occur the next day. This was the evening of the first vote. Somebody said he guessed he and Clarke were together. Smith says, "What the devil is he doing there?" Said he, "I have arranged for all his men, and he has no business to do with Clarke; I have arranged with all his men."

By Mr. ANTHONY:

Q. Who said that?

A. Len. Smith. That is all I remember of hearing said at that time.

By the CHAIRMAN:

Q. He said he had arranged with all of Clarke's men?

A. Yes, sir; and that Caldwell had no business and need not have anything to do with Clarke.

Q. Was anything said by Mr. Smith or Mr. Caldwell, or any of this committee, before the joint convention was held or immediately afterward in regard to an agreement to pay Mr. Clarke a certain sum for his expenses, or defray his expenses?

A. Yes, sir; there was a good deal said about it—a great deal of talk about it.

Q. Was there any talk upon the part of Mr. Smith or any member of that committee?

A. The committee of course knew nothing about that. That was not a subject before the committee.

Q. Did you hear Mr. Len. Smith say anything about it?

A. I heard him say, I think, on one occasion, that he would not give Clarke a cent.

Q. At that time was it stated that an arrangement had been made with Mr. Clarke or proposed or talked about?

A. It was understood that there had been some arrangement made.

Q. And Mr. Smith said that he would not give Clarke a cent?

A. He said if he was in Mr. Caldwell's place he would not give him a cent.

Q. When he spoke about having arranged with Mr. Clarke's men or friends, was there anything said as to how he had arranged with them?

A. No, sir.

Q. Whether he was to pay them, or how much?

A. No, sir; it was just in that way, that he had arranged with them.

Q. And that Mr. Caldwell had no necessity to talk with Mr. Clarke about it?

A. Yes, sir.

Q. You say he came in a little excited?

A. Yes, sir; he seemed to be excited when he learned that they were together.

Q. Now, Governor Carney, is there any fact or circumstance within your knowledge, connected with this transaction, that you ought to state or that it is important for the committee to know? If so, state. I commend the question to your memory and your conscience. If there is any such thing I have not asked you about, or that you have not spoken about, please to mention it.

A. If you put it in that shape, put it to conscience, my conscience is against the whole thing; but you put me on oath and ask me the questions and I have to answer.

Q. I put you upon your oath, and upon your oath and upon your conscience I ask you if you recollect anything further that you ought to tell?

A. I stated in the beginning that I was not a voluntary witness, and should not have said anything if not forced to by the disclosures of these men themselves.

Q. If there is anything you have not stated, go on and state it.

By Mr. HILL :

Q. I will ask, to refresh your recollection, do you know anything of any engagement entered into with a Mr. Stevens, as the agent of Mr. Clarke, by Mr. Caldwell or Mr. Len. Smith, to pay any expenses?

A. No, sir, I do not—only by rumors.

Mr. CLARKE. May I ask you, Mr. Chairman, to call the attention of the witness to the case of Mr. Manning, to refresh his recollection on that?

The CHAIRMAN. You may answer what you know in regard to Mr. Manning's case?

WITNESS. Mr. Manning came to me perhaps two or three days before the vote was taken, and I asked him whether he had made up his mind what to do, or whom to vote for. He seemed to be in very great doubt as to what to do. He said his personal preference was to vote for me if I had been a candidate, and that as between Mr. Clarke and Mr. Caldwell he had very little choice, and did not know what to do. I was urging him that I thought he had better come in and vote for Mr. Caldwell; that I thought that Mr. Caldwell would be successful and that he had better do that.

Mr. CROZIER. Mr. Manning is subpoenaed, and will probably be here before the committee.

By the CHAIRMAN :

Q. Was he a member of the legislature?

A. Yes, sir. He said that he would despise himself, or would not touch any man's money for his vote, but that if he could get the use of of \$2,000 or \$1,800 for one or two years, at the legal rate of interest in Kansas—he would give Colonel Viele and Mr. Graham as indorsers—and if he could get that accommodation from Mr. Caldwell he would vote for him. I told him I was very much gratified to have him put it in that shape, for it was a good deal better form than to put it the other way, and that I thought such a proposition would be agreeable to Mr. Caldwell; I thought he would prefer, and have a great deal more respect for him, to have it in that shape. He said he wished I would name it to Mr. Caldwell. I did so, stating to him what Mr. Manning had stated to me, and Mr. Caldwell told me to assure Mr. Manning he would be happy to loan him the money immediately after they had got through the canvass, upon the indorsements he proposed to give.

Q. Colonel Viele's and Mr. Graham's?

A. Yes, sir; both responsible, reliable men. I told Mr. Manning that Mr. Caldwell said he could have the money; he seemed very much gratified.

Q. Did he agree to vote for him then?

A. Yes, sir, and did vote for him?

Q. Was the arrangement afterward carried out?

A. It was not.

Q. How did that occur?

A. Mr. Caldwell said he had not the money; that his election had cost him so much that he really had not the money.

Q. Did he tell you that?

A. Yes, sir. Mr. Manning wrote me a letter and I sent it to Mr. Caldwell, and Mr. Manning come down himself. I spoke to Mr. Caldwell about it; I felt unpleasantly about it; Mr. Manning blamed me somewhat for not getting the money, and that he had been deceived in it; and I urged Mr. Caldwell very much about it, telling him it was a promise he ought to keep; that it was a better class of promises than had been made there, and I thought it ought to be kept.

Q. Did he deny the pledge?

A. No, sir; only he said he was unable to do it.

Q. Did Mr. Manning go and see Mr. Caldwell about it?

A. I think he did. He came down for that purpose, and told me he did.

By Mr. TRUMBULL:

Q. Have you got that letter that Mr. Manning wrote you?

A. I have it or had it.

Q. Did you send it to Mr. Caldwell?

A. I sent it to Mr. Caldwell; but my recollection now is that Mr. Caldwell sent back the whole batch of these letters that I had sent to him from other people, with indorsements on them.

Q. From members of the legislature?

A. Some from members of the legislature; some were not.

Q. Have you in your possession letters written by members of the legislature which were sent to you for Mr. Caldwell and by you to him, and then sent back to you by him, relative to this election?

A. If I had any at all, it was persons asking appointments or places.

Q. Did any of these letters relate to promises in regard to the election?

A. No; they generally go on and state in this way: "I was a friend of yours and Mr. Caldwell, and voted for him, and I should be glad to get a particular place."

Q. Was this particular letter of Manning of that kind?

A. Yes, sir.

Q. Did that relate to the arrangement?

A. Yes, sir.

Q. Would that one show it?

A. I think it would.

By the CHAIRMAN:

Q. I will call you back to the question I asked you, commending it to your conscience to state anything to this committee that you have not mentioned that is pertinent to this case—any fact, circumstance, or conversation.

A. I do not know; I cannot call to mind anything now that I could state of my own knowledge. All I could state would be of a general character, or in a general way, and that is, that there was no question but that there was a very large sum of money used, and it was a very disgraceful and degrading affair from beginning to end, which I am very sorry to admit.

By Mr. LOGAN:

Q. I want to ask you in reference to a statement you made in an early

part of your examination as to this check indorsed by you and given to Mr. Anderson. You stated that you believed that he came back with a bundle of something which you presumed to be money.

A. I stated that it might have been money.

Q. That he had it in his pocket, and went from your room into a bedroom?

A. Into the back room.

Q. He went from the committee-room into the back room?

A. Yes, sir; and asked if there was anybody in that room.

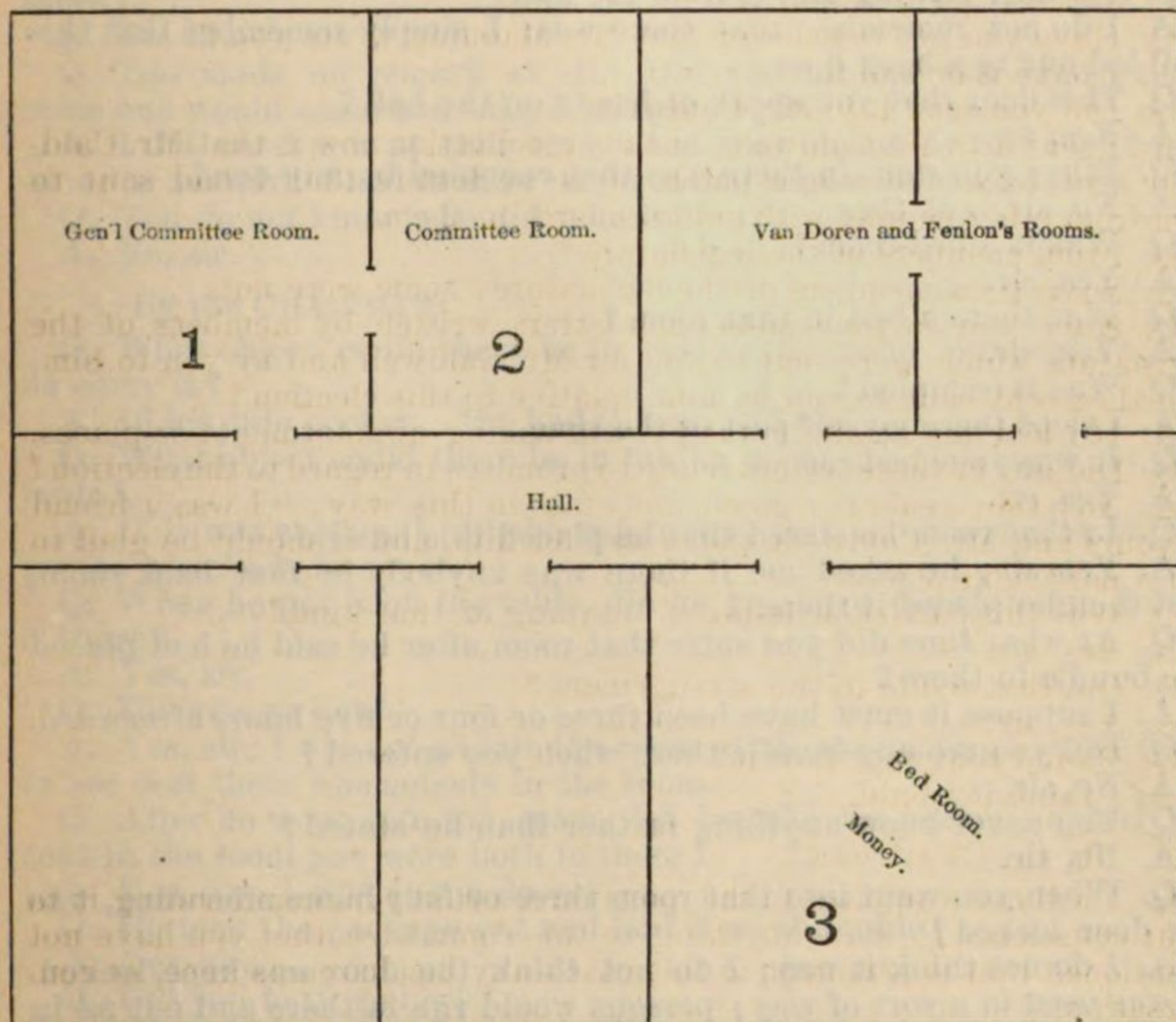
Q. I want to know what relation that room had to this committee-room. Is it a part of it or connected with it?

A. It was one of my rooms. It was used as a part; for instance, when anybody would be in the front room or the front room would be full, they would go back into that room.

Q. Could you pass from your room by a door into this room?

A. No, sir; not immediately.

(The witness here draws the following sketch to illustrate:)



(Illustrating.) Here is the hall, there the middle room, and here the front room or committee-room. Then the middle room, and back of it was the bed-room of some members of the legislature. This other room, about which you asked, on the other side of the hall—this room on the opposite side of the hall—was the room you speak of. The money was put into that room.

Q. Will you point out the committee-room?

A. Yes, sir; (indicating it.)

Q. Call it number one.

A. Yes, sir; and the next one, my room, will be number two; then there is the room across the hall; call that number three.

Q. Were there any doors from that room into this room occupied by members of the legislature?

A. No, sir; except by going across the hall where the room was occupied by the Leavenworth delegation.

Q. There was a hall between their room and the room which he entered with the money?

A. Yes, sir.

Q. And there was one room and the hall between your committee-room and that room where the money was placed?

A. Yes, sir.

Q. Now, was there any way to pass into that room or out of it except through the hall?

A. Yes, sir; there was a back way.

Q. But, I mean, was there any other door leading into that room except this door leading into it from the hall?

A. I do not remember that there was; I simply remember that this hall led out to a back door.

Q. This door that you speak of fronts on the hall?

A. Yes, sir.

Q. When you went in there was that occupied by any one?

A. No, sir; not then.

Q. Was it a bed-room?

A. Yes, sir.

Q. Was there a bed in that room?

A. Yes, sir.

Q. Was it occupied?

A. I slept there myself part of the time.

Q. It was your bed-room?

A. Yes, sir.

Q. In that room he stated that he placed this bundle?

A. Yes, sir; he asked me if there was anybody in that back room, and then he placed it there.

Q. At what time did you enter that room after he said he had placed the bundle in there?

A. I suppose it must have been three or four or five hours afterward.

Q. Did you see any bundle there when you entered?

A. No, sir.

Q. You never knew anything further than he stated?

A. No, sir.

Q. When you went into that room three or four hours afterward, was the door locked?

A. I do not think it was; I do not think the door was kept locked. It was used in a sort of way; persons would run in there and out as in any other room. When they wanted to see a man a minute, they would take him in there like any other room that was vacant.

Q. He stated to you that the money had been stolen in a jocular way?

A. Yes, sir; in a jocular way he stated that the money had been taken.

By Mr. HILL:

Q. Was there any circumstance whatever that brought your mind to any conclusion as to who probably got that money, supposing it to have been money that was wrapped in the newspaper?

A. I could not state of my own knowledge. There were so many people being talked about at that time who wanted money that I could not call to mind now what particular crowd this was intended for.

Q. Did I understand you to say you saw him place the package in that particular room and leave it there? Did you see him when he laid the package down and took it out of his pocket?

A. No. I do not know that I stated that. I think I stated, and what I remember was, that he asked me if there was anybody in the back room, and I said "I will go and see;" and I went and reported that there was nobody there, and he came right in there and said, "I want to leave a bundle in this room," or "your room." I think that I saw him lay it on the table. I know he came out and went back with me to the front room.

Q. Taking all the preceding circumstances, what was the impression on your mind as to what that bundle contained? Did you think it was money?

A. I did, sir.

Q. Did you give him any caution as to the carelessness of leaving it there?

A. No, sir.

Q. You made no remark at all. Did you not yourself expect that some one would come and take it away?

A. I did not know at that time what was meant by it. It did not occur to me until I had heard them mention about its being taken.

Q. You do not know who did take it?

A. No, sir.

By the CHAIRMAN:

Q. What object could there be in taking the money out; where did he carry it?

A. In his side pocket. He had it buttoned up.

Q. What object could there be in taking it out and putting it on the table?

A. If it was money, I should say it was very careless unless he expected somebody to get it.

Q. When he put it on the table, did he go out of the room and leave it there?

A. Yes, sir.

Q. Did you go out?

A. Yes, sir; I did not go into the room at all, except to go to the door to see that there was nobody in the room.

Q. After he went into the room, did he take the package out of his coat in the room you were both in there?

A. Yes, sir; I was at the door.

Q. He took the package out and laid it on the table?

A. Yes, sir.

Q. Did you both go back?

A. Yes, sir; my recollection now is, upon reflection, he went down stairs and out into the street.

Q. How long was it until he came in again and made the remark, "Somebody has taken that package?"

A. It would be difficult to measure time in that; it may have been half an hour; it may have been an hour. It was not a great while. I could not tell exactly whether 25 or 65 minutes.

By Mr. HILL:

Q. Do you recollect how long it was when he went down-stairs before

he returned to the committee-room, or did he return soon after placing the money there?

A. The first I remember was he came in the room and said somebody had stolen that package.

By Mr. TRUMBULL:

Q. Was there any understanding with that committee at any time that money was to be left in that way in rooms for persons to get it?

A. I never heard it but on this occasion.

Q. Was there any such report made to you?

A. No, sir; I never heard it myself.

Q. Did you have any knowledge by any report that was made to your committee by any person of the persons who obtained that package from that room?

A. I do not understand your question.

Q. Have you any knowledge from any report that was made at any time to that committee by any person, as to who obtained that package from that room?

A. No, sir; not from that committee.

By the CHAIRMAN:

Q. Was there anything said that night, or just after that, in this committee, or by the members of it, to the effect that the Doniphan County delegation were to get \$7,000.

A. I did not hear it. I never heard the Doniphan County delegation discussed before the committee that I remember or can call to mind. I heard a great deal about it after the legislature was over, and about various delegations. Various delegations were talked about, and various sums mentioned that certain men wanted, and certain delegations wanted, and all that sort of thing, but I cannot call to mind where the Doniphan County delegation was discussed before that committee when I was present. I have tried to call it to mind.

Mr. TRUMBULL. I think it would be proper, Mr. Chairman, with a view of putting it upon inquiry, to ask whether this witness has any information from any source as to what became of that money, whether by hearsay or otherwise.

The CHAIRMAN. If there be no objection, the witness will answer the question.

The WITNESS. I have not, in any way that I deemed reliable.

By Mr. TRUMBULL:

Q. No information?

A. No information that I would regard as at all reliable, or that would be worth considering a moment.

By the CHAIRMAN:

Q. Had you any arrangement with Mr. Anderson that he was to work for you before the time you made this arrangement with Mr. Caldwell, at Topeka?

A. No, sir.

Q. You never had any conversation of that kind with Mr. Anderson?

A. Yes, sir. Mr. Anderson came down to Leavenworth, I think, three or four days before the legislature met, and wanted to know if I would be a candidate. I told him I was not a candidate, and did not expect to be. He said he would like to assist me. I thanked him, and said if I was a candidate I would be glad to have his services.

Q. Did he say anything about being paid for it?

A. I think he said he would work reasonably, and so on. I had not any use for him.

Q. Was there any other conversation on that subject with Mr. Anderson—any conversation in regard to induce Mr. Anderson to go over and work for Mr. Caldwell for \$5,000, or any other sum?

A. I recollect this: when I went up to Topeka I told Mr. Anderson that I was not and did not expect to be a candidate, but that if he wished to help a Leavenworth man, he would have to assist Mr. Caldwell; that he was the only candidate that had come from Leavenworth.

Q. Did you say anything as to his compensation?

A. I did not. I do not remember that I did. After this interview—after these friends of mine had called upon Senator Caldwell, and they had agreed with me that it was not best for them or me to attempt a canvass at that time with the obstacles we had to meet—I then published a card declining to be a candidate under any circumstances, which I did not do until after a full and free conversation with them, and after their interview with Mr. Caldwell.

Q. Have you seen the testimony of Mr. Smith?

A. I have, as published.

Q. In the newspapers?

A. Yes, sir.

Q. Mr. Smith stated that you published that card after his agreement to pay you \$7,000 at Topeka, in addition to the \$15,000 before; that he had paid you \$7,000 for the expenses that you had incurred, or was to incur, at Topeka during that canvass, and after he made that agreement with you you published this card. Is that correct?

A. That is wholly untrue. As some of the committee, who are now all present, were not here in the first part of my testimony I will state it again. When I went to Topeka, on the day I arrived there, about the latter part of the first week of the legislature, Mr. Smith called on me and desired to have my services for Mr. Caldwell. After I had called together my friends, and after they had waited upon Mr. Caldwell and consulted with my friends, I agreed then with Mr. Smith to assist Mr. Caldwell, and then I published my card declining to be a candidate under any circumstances, and Mr. Smith gave me his obligation for \$10,000 for thirty days, and another for \$5,000, but as to this \$7,000, I indorsed that check after fully one week or more after I published my card and after all the matters between Smith and myself had been concluded.

Q. You stated that \$7,000 was no part of the consideration for your declining?

A. It was not.

Q. You say that no part of it was for yourself?

A. Not a dollar.

Q. That you had no consideration or stipulation from or with Mr. Caldwell except for the \$15,000?

A. None in the world.

By Mr. TRUMBULL:

Q. I did not hear distinctly what you said about the \$7,000?

A. I simply indorsed that draft as an accommodation. I had no stipulation for it.

Q. Not anything except the \$15,000?

A. That was all.

Mr. CROZIER. I will state that the major part of Governor Carney's

testimony is entirely new to me and not such as I expected it would be, and as Governor Carney is to stay until Monday, I will ask that his cross-examination be postponed until that day.

The request of Mr. Crozier was granted, and the further examination of this witness was postponed until Monday.

WASHINGTON, D. C., *Saturday, January 18, 1873.*

JOHN FLETCHER recalled.

Mr. CLARKE. I asked to have this witness recalled, to be examined in regard to Anderson's declarations to him as to the \$3,500 note which has been mentioned.

By the CHAIRMAN:

Question. Mr. Fletcher, what did Mr. Anderson state to you on the subject, if anything?

Answer. Some time early this spring, along in the month of May or June, or perhaps July—I don't remember just the time—I was going to Saint Louis, and I said to Anderson I was going to Saint Louis. He was at the depot, and he called my attention to that fact, and said he would like to have me speak to Governor Carney about this note. I asked what note it was; he said it was a note given by himself and indorsed by Mr. Caldwell, and that he wanted to get the money on it. He asked me if I would call Mr. Carney's attention to it at Saint Louis. I think I did.

Q. Did he state what the consideration of that note was?

A. No, sir; I don't think he did.

Q. Did he state how it came to be indorsed by Mr. Caldwell?

A. I don't remember that he did, at that time; but I got the inference from remarks that it was in that senatorial election.

Q. Did you get that from him?

A. Yes, sir; I think I did.

Q. When and where?

A. In general conversation in our town from time to time on this subject.

Q. That this note was given in consequence of transactions growing out of the senatorial election?

A. Yes, sir; that is the way I got it.

Q. What was the consideration?

A. I don't know as he told me.

Q. Was it for his services?

A. I don't know as he told me.

Q. But it grew out of the senatorial fight?

A. Yes, sir.

By Mr. CROZIER:

Q. When did you say this conversation occurred with Mr. Anderson—on the way to Saint Louis?

A. It was the time I went to Saint Louis.

Q. When was that?

A. I said early in the spring. It was in the month of July—perhaps in the latter part of July—that I went to Saint Louis.

Q. In what year?

A. Last year—1872.

Q. Last July?

A. Yes, sir.

Q. You were examined the other day, I believe?

A. Yes, sir.

Q. Did you say anything about this conversation of Mr. Anderson at the time of this examination?

A. I think not.

Q. Why not?

A. I don't know that the question was asked me.

Q. Was there not a general question put to you, asking you whether you had any further knowledge or information in regard that senatorial business?

A. Yes, sir; I think there was.

Q. Do you recollect what you answered to that?

A. No, sir; I don't remember. My evidence is here to show for itself what my answer was.

Q. Why did you not then state this circumstance in answer to that general question?

A. The only reason I can give is that it did not come into my mind.

Q. How did it happen that you were recalled?

A. I don't know.

Q. Had you had any conversations with Mr. Clarke here about it?

A. I think I had not had any here on that matter?

Q. Had you any conversation with Mr. Clarke after you were discharged the other day in regard to this conversation with Mr. Anderson?

A. No, sir.

Q. How, then, did Mr. Clarke happen to know you would so testify?

A. I think I had made the remark back home last summer, and it had got to his ears.

Q. Do you know why Mr. Clarke omitted to ask the question when you were on the stand?

A. I do not.

Q. Had you any conversation with Mr. Clarke on the subject of this investigation after you were discharged the other day, and before you were re-subpœnaed?

A. We had some conversation, I think—general talk—about the matter; but not in relation to this, particularly.

Q. Was there nothing said, after you were discharged and before you were subpœnaed again, about this Tom. Anderson conversation?

A. I don't think there was.

Q. You cannot account for being recalled?

A. Not unless I related this conversation at home last summer and it got to him, because it was street-talk there.

Q. When were you examined before in this investigation?

A. On the 15th, I believe.

Q. What day of the week would that be?

A. Monday, I think.

Q. What day were you subpœnaed the second time?

A. No; I was examined Monday, and I was recalled or re-subpœnaed on the 15th, I think.

Q. When were you re-subpœnaed?

A. On the 15th.

Q. What time in the day?

A. I think it was about noon; you were in here at the time.

Q. Was it not about 3 o'clock in the afternoon?

A. I think it was after 12 some time; I don't know what hour it was.

Q. Where did it occur?

A. It occurred right here. I was re-subpœnaed there in the hall.

Q. The subpœna was served on you in the hall. You were here from the 13th of the month. What time were you examined and discharged?

A. I was examined in the afternoon, on Monday, I believe.

Q. This was Wednesday, the 15th, that you were re-subpœnaed in the afternoon. If you are in such a hurry to get home, now explain why you did not go home after you were discharged the first time. You said, after the last witness left the stand, that you would like to be examined here at once, that you might go home?

A. I was waiting for another gentleman to come here that I supposed would be here.

Q. Who was that?

A. Mr. Gage. I understood he had been subpœnaed, and I desired to see him here.

Q. Had he arrived on the 15th?

A. No, sir.

Q. Were you going home on the 15th?

A. I don't want to get it mixed up now. Was it Monday I was examined?

Mr. CROZIER. It was on Monday, January 13, you were examined.

The WITNESS. Then it was on the 15th that I was re-subpœnaed, and I intended to go home that evening. There were ten or twelve here going that night, and I wanted to go with them, and should have went if I hadn't been re-subpœnaed.

Mr. TRUMBULL. I think this is foreign to the investigation.

Mr. CROZIER. The point is this: Fletcher has said that he had no talk with Mr. Clarke prior to his formal examination about this subject concerning which he has just testified, and that he is anxious to go home. I want to show that he has made himself busy enough to see Mr. Clarke, to tell him that he knew something Tom Anderson said, and wanted to testify to it.

The CHAIRMAN. You can proceed.

By Mr. CROZIER:

Q. What were you up at the Capitol about at the time you were subpœnaed?

A. I was here settling for my mileage.

Q. Was that the day you were paid off, the 15th?

A. It was on the 14th I settled; but I was up here that day to ascertain if Mr. Gage had been subpœnaed by telegram. I wanted to see him. On the 15th the other parties were going home, and I desired to go with them; but if Mr. Gage was going to arrive, I would wait over.

Q. Who is Gage?

A. A gentleman in Topeka.

Q. Had he been subpœnaed?

A. They said he was.

Q. Had he been a member of the legislature?

A. Yes, sir.

Q. Did you want to see him about this investigation?

A. No, sir.

WASHINGTON, D. C.,
Saturday, January 18, 1872.

DANIEL R. ANTHONY recalled.

Mr. CLARKE. I ask to have Colonel Anthony recalled, for the purpose of proving Mr. T. J. Anderson's declarations in regard to the \$7,000 check and the disposition of the money.

The CHAIRMAN. As I am compelled to leave, I will ask General Logan to take the chair.

By the CHAIRMAN, (Mr. LOGAN:)

Q. Were you examined before on the point which Mr. Clarke has just spoken of?

A. I think not.

Q. Go on and state the facts in regard to it.

A. In this conversation with Mr. Anderson, at Leavenworth, he stated, in substance, that he tried to get the money at the bank, and they refused to let him have it, and he brought the check back; and Len. got mad and tore it up, and a new check was drawn, and Carney indorsed it; and he then took it and brought the money back, and took it into a room; and he said that Sol. Miller, from Doniphan County, came in and put the package in his pocket and took it off; and it was for the Doniphan delegation.

Q. Anderson told you that?

A. Yes, sir.

Q. Where does Sol. Miller live?

A. He was senator from Doniphan County.

Q. At what time did Anderson make this statement?

A. While the committee was in session at Topeka.

Q. What committee?

A. The committee of investigation.

Y. Where did he make the statement?

A. In my office, at Leavenworth.

Q. Who was present?

A. Nobody.

Q. None but your two selves?

A. No, sir.

Q. Was that statement made in the same conversation you spoke of the other day, when he spoke of his going away?

A. Yes, sir.

By Mr. CROZIER:

Q. Can you fix the time of the conversation?

A. It was the day he was in Leavenworth—the Thursday or Friday during the investigation. I can't tell which week, only it was the week he went to Council Bluff.

Q. Several Thursdays and Fridays are included in the time of that investigation. Can you not fix this one?

A. I cannot. It was while he was away from Topeka. It was the Thursday or Friday preceding the Sunday he went up to the legislature and back.

Q. Where was your office at that time?

A. On Shawnee street.

Q. In the Times building?

A. Yes, sir.

Q. Did you have more than one conversation with Anderson about that time?

A. I had two or three. This was the principal conversation. This was the only private conversation at the time.

Q. Were these two or three conversations all on the same day?

A. Yes, sir.

Q. Was it in the same conversation you related the other day, in which you said Anderson spoke of three thousand five hundred dollars?

A. Yes, sir; it was.

Q. In the same conversation?

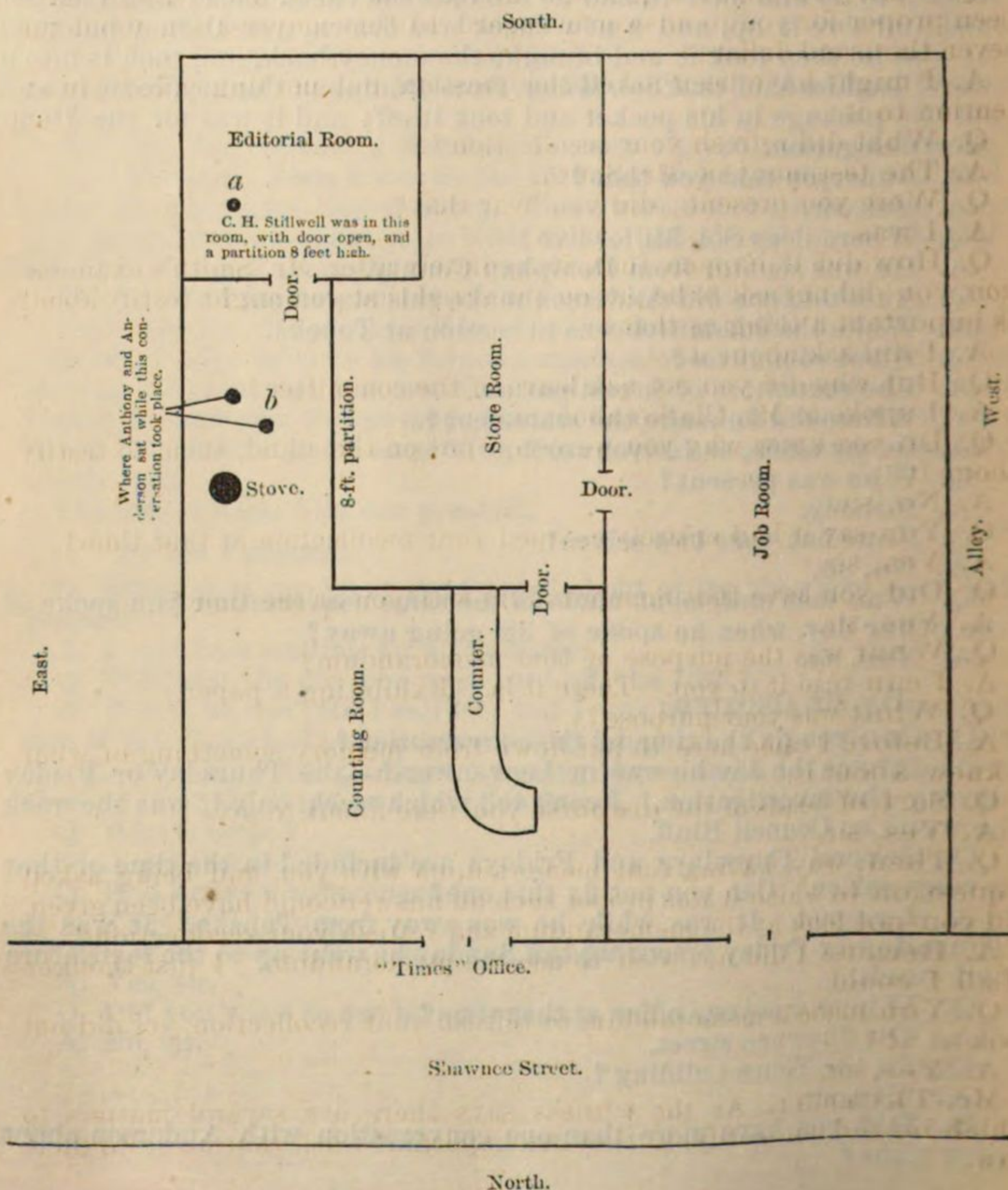
A. Yes, sir.

Q. Did you not say, the other day, that this conversation or that conversation was in the hearing of Mr. Stillwell?

A. Stillwell tells me he was sitting in the editorial room, immediately adjoining, and heard part of the conversation.

Q. How was the editorial room you were in situated?

A. Give me a piece of paper and I can map it very quickly, so you can see it exactly. [The witness here makes the following sketch:]



Q. Now, where were you and Anderson?

A. This is the front on the street. [Illustrating.] Here is the counting room, and this is the hall-way with a partition eight feet high. The stove is there, and there Anderson sat; and close by it was the eight-foot partition, with a door there. Stillwell claims he was there in that room. I was in the room, but I had no distinct recollection of Stillwell being there, or who was in the room.

Q. How did it happen you did not mention that circumstance the other day when you testified here?

A. I forgot it.

Q. Do you not regard that as quite an important circumstance?

A. Yes, sir; I had it on my memorandum to testify to, but did not read it at any time. I have it here.

Q. I did not ask for that paper; you could make it any time.

A. That paper was made before I came here. I have half a dozen other matters upon it here to which I did not testify.

Q. Were you asked a question in response to which it would have been proper for you to answer in regard to this conversation about the seven thousand dollars?

A. I might have been asked the question, but nothing called my attention to it.

Q. What did refresh your recollection?

A. The testimony of Mr. Smith.

Q. Were you present; did you hear that?

A. I was.

Q. How did it happen that, immediately after Mr. Smith's examination, you did not ask to be put on the stand that you might testify about as important a thing as that?

A. I did ask about it.

Q. But why did you not ask leave of the committee?

A. I spoke to Mr. Clarke about it.

Q. Do you know why you were not put on the stand, then, to testify about it.

A. No, sir.

Q. You say it had entirely escaped your recollection at that time?

A. Yes, sir.

Q. Did you have that memorandum with you at the time?

A. Yes, sir.

Q. What was the purpose of that memorandum?

A. I can read it to you. There it is. [Exhibiting a paper.]

Q. What was your purpose?

A. Before I came here to put down from memory something of what I knew about it.

Q. Sort of heads of the discourse you were about to give?

A. Yes, sir.

Q. Then, why, having that memorandum with you, and being asked a question to which it was proper such an answer could have been given, did you not look at the memorandum and refresh your recollection?

A. Because I did not wish to use the memorandum. I just thought of all I could.

Q. You made a memorandum to refresh your recollection, yet did not look at it?

A. Yes, sir.

MR. TRUMBULL. As the witness says there are several matters to which he did not testify, if they are important I ask that he state them now.

The CHAIRMAN, (Mr. Logan.) If they are matters having any connection with this investigation, the witness will proceed to state them.

The WITNESS. They have; but they are in regard to matters that have been sworn to before the State investigating committee, and my statements would simply stand alone and amount to nothing, or amount to nothing probably. Men would contradict them directly and flatly.

By the CHAIRMAN, (Mr. Logan:)

Q. Have these witnesses been examined or subpoenaed here?

A. No, sir; they have not been examined. One is Frank Drenning; another is J. E. Smith, keeper of a hotel in Nemaha County.

By Mr. TRUMBULL:

Q. Were any of these members of the legislature?

A. Sol. Miller was the only one who was.

Q. Has he been examined?

A. No, sir; he has been subpoenaed. Frank Drenning is subpoenaed, and he was one of the members of that so-called "committee."

By the CHAIRMAN, (Mr. Logan:)

Q. Has he been examined?

A. No, sir. I don't think my testimony amounts to anything on this point. It is only with Frank Drenning where there is any conversation that I have had with them—with any of the witnesses that have been subpoenaed. Mr. Smith has not been subpoenaed.

The CHAIRMAN, (Mr. Logan.) You will remain in attendance.

WASHINGTON, D. C.,

Saturday, January 18, 1873.

WILLIAM S. BURKE sworn and examined.

By the CHAIRMAN, (Mr. Logan:)

Q. What is your name?

A. William S. Burke.

Q. Where do you reside?

A. At Leavenworth, Kansas.

Q. How long have you resided there?

A. Since November, 1868.

Q. What is your business?

A. I am an editor.

Q. Editor of what?

A. I am, at present, one of the associate editors of the Leavenworth Times.

Q. How long have you been associate editor of the Leavenworth Times?

A. I have been connected with the Times a little more than a year.

Q. Do you know anything in regard to the election of Mr. Caldwell to the United States Senate?

A. I *positively know* very little about it.

Q. Were you at Topeka at the time?

A. No, sir; I was at that time publishing the Leavenworth Bulletin.

Q. At the time of his election?

A. Yes, sir; and supported Mr. Caldwell.

Q. I want to ask you in reference to some notes given by you to Mr. Caldwell. Did you ever give him any notes?

A. Yes, sir.

Q. How many?

A. Well, the notes were not given to him, but he indorsed my notes.

Q. Who were the notes given to?

A. To Newman & Havens, I believe.

Q. How many notes were there?

A. I had several transactions with Mr. Caldwell, running over a period of perhaps a year. The particular notes, I presume, referred to in the examination, amount to \$2,500.

Q. How many notes were there?

A. Two of these: one for one thousand and one for fifteen hundred dollars. That was during the senatorial canvass.

Q. What were those notes given for?

A. They were given to pay for newspapers and printing expenses incurred by me in his behalf.

Q. You say they were given to Newman & Havens, bankers?

A. Yes, sir.

Q. With Mr. Caldwell's indorsement; and you drew the money?

A. Yes, sir.

Q. Were those notes paid?

A. Mr. Caldwell took them up after they were protested.

Q. He paid the bank?

A. I presume he did.

Q. What do you say was the consideration for which the notes were given?

A. For newspapers distributed, type-setting, and printing done in his interest.

Q. In his interest for the election for the Senate?

A. Yes, sir.

Q. Did you issue the newspapers?

A. I did.

Q. And do the work according to agreement, or did you have an agreement?

A. If you will let me go back, I will explain.

Q. Just tell the whole thing; all you know about it.

A. I was looking about for a candidate a good many months before the election, and finally settled upon Mr. Caldwell as the most available man, and spoke to him about the matter, and supported him in the paper. And, as the time for the election approached, it was thought necessary to run the paper stronger in his interest, and distribute documents freely over the State. He spoke to me about it. I told him my circumstances were such that I could not do it without help; if he would foot the bills, I would print the papers and distribute them. That was the agreement, and as money was needed, from time to time, to defray the expenses, I gave my note to the bank, with his indorsement, with the understanding that he was to take up the paper. He did take up the notes after they were protested, and has since sued me for the amount.

Q. Sued you for the notes?

A. Yes, sir.

Q. Is the case still in court?

A. Yes, sir. After the election, in conversation with Mr. Caldwell, I desired him to purchase the other newspaper in the town to consolidate with mine. He said that he could not afford to do it, for the campaign had cost him so much that he felt too poor. That was the time at which he remarked that the expenses of the campaign had been about, or perhaps a little more than, twice as much as his salary, and he could not afford to do it.

Q. Had you any other conversation with Mr. Caldwell on the subject, or was that the only one?

A. I had two or three conversations with him at different times, but that was about the gist of it all. He remarked, I believe, something about paying Mr. Carney's election expenses, and I suggested that that was perhaps a pretty large item. He said it was, but not more than 10 per cent. of the whole amount.

By Mr. CROZIER:

Q. You spoke about a suit having been instituted by Mr. Caldwell against you on notes that he had indorsed for you at Newman & Havens's?

A. Yes, sir.

Q. Was there more than one suit instituted against you by Mr. Caldwell on any note?

A. There was only one that I remember—one suit.

Q. Was not that the only one? Was it not the fact that there was only one suit?

A. Yes, one; the one that is pending now.

Q. Was not a suit instituted upon a note for \$2,000, and instituted in behalf of Mr. Len Smith and Mr. Caldwell?

A. The \$2,000 note was the one sued on originally.

Q. Just answer my question. Suit was brought on a \$2,000-note in behalf of Mr. Smith and Mr. Caldwell?

A. But these other notes were set up in the amended answer.

Q. Please just answer my question.

A. Yes, sir; it was.

Q. Was there not judgment in that suit for the amount of that note and interest?

A. In the first suit——

Q. Will you please to answer the question?

A. I think not.

Q. Was there a judgment rendered against you in that suit?

A. I think not; not yet. I think the suit is still in court.

Q. What court?

A. I understood it was carried to the supreme court. I really know very little about it?

Q. Then it is in the supreme court now?

A. Yes, sir.

Q. Was there not a judgment rendered against you in the suit in the district court at Leavenworth?

A. If there has not been, I presume there will be.

Q. Has there not?

A. I do not know.

Q. That case was tried then?

A. Yes, sir.

Q. The first time there was a verdict in your favor; a verdict of the jury?

A. Yes, sir.

Q. That was set aside, was it not?

A. I believe so.

Q. On the ground that a certain newspaper-article published in the Times, it was supposed, had influenced the jury. Was not that the ground?

A. Yes, sir.

Q. It was tried a second time, and was there not a verdict given against you in the second trial?

A. Yes, sir.

Q. In the second trial these notes I refer to were put in?

A. There was a second trial. I want to answer so as not to contradict myself.

Q. Was there not a verdict against you in the second trial?

A. Yes, sir.

Q. Was not that verdict followed by a judgment?

A. I don't know whether a judgment has been yet rendered or not. I presume it will be.

Q. If it is in the supreme court, the judgment would have been rendered?

A. I believe it was carried there on an error of some kind. It is a matter I know but little about.

Q. Do you know the amount of that verdict against you?

A. Two thousand dollars and interest.

Q. Then the suit and verdict were upon a note for \$2,000 in behalf of Len. Smith and Mr. Caldwell?

A. In the first suit these notes were all set up.

Q. Was there more than one suit?

A. There were two trials.

Q. Was not the only suit there was instituted upon a \$2,000 note, and in behalf of Mr. Smith and Mr. Caldwell, followed by a verdict of \$2,000 and interest against you?

A. Well, I don't know whether it is a suit or trial. I simply know that this paper was presented to me in the court, and I had to defend against the whole of it.

Q. It was not in the second trial?

A. No, sir.

Q. How did these other notes—the Newman & Haven's—get into the trial?

A. Brought in by your attorney.

Q. Was the suit brought on them originally?

A. I believe not. It was brought in on your amended answer.

Q. We did not amend the answer after we brought the suit. Were they brought in in the form of an answer?

A. I don't know much about legal technicalities. I merely know they met me in court.

Q. Did you not set them up?

A. In court?

Q. Yes, sir.

A. Certainly not.

Q. Was there not a good deal of testimony in that suit, in the course of the trial, upon the subject of an agreement between you and Mr. Caldwell, that these notes were to be considered paid on account of the services of the Bulletin in his favor?

A. There was.

Q. The jury then, I suppose, did not believe it? What was the financial condition of the Bulletin at the time that two thousand dollar note was made upon which the suit was made?

A. It was not very good.

Q. What was its condition during the senatorial canvass?

A. It was never good at any time.

A. What other papers in Leavenworth were supporting Mr. Caldwell?

A. I don't think any others were. I don't know of any other paper in the State that supported him.

Q. Did not the Daily Call and the German paper support him?

A. They may have done it toward the close of the campaign.

Q. Was not your paper regarded as the principal champion of the cause of Mr. Caldwell in the State?

A. I believe it was.

Q. I ask if these different notes, made to you by Mr. Caldwell, were not for the purpose of assisting your paper?

A. That is just what I have stated to the committee.

Q. I ask as to the first note of two thousand dollars.

A. Yes, sir.

Q. What security was given, if any?

A. A mortgage on one-half of the office.

Q. The Bulletin office?

A. Yes, sir.

Q. For the twenty-five hundred dollar notes or any portion of them, which you speak of afterward, what security was given?

A. None on the twenty-five hundred dollar notes that I refer to. Another fifteen hundred dollar note was secured by a mortgage on a piece of land.

Q. That would make in all about six thousand dollars?

A. Yes, sir.

Q. That was secured upon a mortgage upon land near Council Bluffs?

A. Yes, sir.

Q. At the time you made application to Mr. Caldwell to indorse your notes so you could get the money on them, did you not represent to him that you had been doing work for the State; that the State owed you, and you could not get your pay until after the legislature met and made an appropriation; but that when that was done you would be able to take care of these notes yourself?

A. No, sir.

Q. Did you not say you had been doing work for the State?

A. No, sir; not at that time; but a year or so before that I held a claim against the State, and he advanced me some three hundred dollars, which I paid after the claim was paid to me.

Q. When was that?

A. That was, perhaps, a year before this election. I gave Mr. Caldwell an order——

Q. Was it a year before the senatorial election?

A. I think, perhaps, it was a year. I don't remember definitely.

Q. How did it come that he advanced you money at that time? You say he was not a candidate at that time?

A. I gave him ample security for it.

Q. He did it as a money-loaner, did he?

A. He did it as an accommodation and as a friend.

Q. What did you represent to Mr. Caldwell was the value of your half-interest that you mortgaged to him in the Bulletin, at the time it was mortgaged?

A. I valued the Bulletin at from fifteen to eighteen thousand dollars.

Q. Did you not represent to Mr. Caldwell, at the time he took that security, that your interest was worth from seven to ten thousand dollars?

A. I owned the whole paper.

Q. That the one-half of it was worth from seven to ten thousand dollars?

A. Yes, sir.

Q. Did you not so represent to Mr. Caldwell?

A. Yes, sir.

Q. Did you not assure him at the time these notes were indorsed that he was in no danger of having them to pay; that your resources were such as to enable you to pay them?

A. Very likely, I did.

Q. You say something about some conversation with Mr. Caldwell, in which he stated to you his election had cost him a great deal of money. That occurred after the election?

A. Yes, sir.

Q. Can you fix the time of any one of these conversations?

A. I cannot fix the exact date, but somewhere between the time of the senatorial election and the time he left for Washington—along about the first of March or latter part of February.

Q. How near can you come to fixing the time?

A. It may have been the first of March or latter part of February; perhaps during the last week in February.

Q. What is your best recollection about that?

A. As near as I can recollect, it was the latter part of February or first of March.

Q. Do you think it was within the last week of February?

A. It may have been. It may have been as far back as the middle of February.

Q. You cannot tell when?

A. I cannot tell nearer than that. It was between the election of Senator and the time of Mr. Caldwell's leaving for Washington.

Q. That may be a pretty wide step.

A. Not more than a month.

Q. Where did this conversation take place?

A. At Mr. Caldwell's house, in his library. I met him there three times, I believe. He brought it about. I was talking with him about buying the Times and consolidating with the Bulletin, and urging him to do it.

Q. Was that in contemplation?

A. It was talked about.

Q. Was it not the other way, that it was in contemplation to unite the Bulletin with the Times?

A. No, sir.

Q. To sink the Bulletin and unite it with the Times?

A. No, sir.

Q. Was not that afterward done?

A. No, sir.

Q. Did not the Times and Bulletin unite at one time; and, there being a difficulty, separate?

A. They did.

Q. In reference to this transaction, when was this conversation with Mr. Caldwell?

A. During the same conversation.

Q. I want to fix the date. You say the Bulletin and Times were united a short time?

A. Yes, sir; united on the 1st of April, and continued so for a month.

Q. Was that after Mr. Caldwell left for Washington?

A. Yes, sir.

Q. What was the name of the paper at the time?

A. The Times and Bulletin.

Q. Where was it published?

A. Published from the Times office.

Q. It was issued from the Times office, then ?

A. Yes, sir ; and was under my charge.

Q. How did it happen that the conversation between you and Mr. Caldwell was in reference to buying the Times, instead of the Bulletin ?

A. I would hardly talk about buying the Bulletin, because I owned it already. It was the Times I wanted.

Q. You subsequently transferred the Bulletin to the Times office ?

A. About a year ago I did, when I could not do anything else.

Q. But, subsequent to this conversation you had with Mr. Caldwell ?

A. No, sir.

Q. I thought you said it was in April that the Bulletin and Times were united, or about the 1st of April ?

A. I did.

Q. Following this conversation you had with Mr. Caldwell ?

A. I do say so.

Q. Since the time you refer to as being the time of the conversation with Mr. Caldwell at his house, have you at other times tried to induce Mr. Caldwell to advance to you money to sustain the Bulletin ?

A. I do not remember to have had a conversation with Mr. Caldwell on that subject since the first vacation after his election.

Q. When would that be ?

A. During the summer of 1871.

Q. What time did the Bulletin suspend issuing ?

A. In the fall of 1871.

Q. I believe you testified before the investigating committee at Topeka, did you not ?

A. Yes, sir.

Q. Was this question asked you : "Question. Did Mr. Caldwell ever pay, or offer to pay, you any money for your services in his behalf in the election of United States Senator ?"

A. That question was asked me.

Q. Was this your answer : "He offered to pay me \$2,500 last November. I did not accept his offer ?"

A. That was my answer, after the explanation I have made to this committee.

Q. Was that the answer you made to that question ?

A. Yes, sir.

By Mr. CLARKE :

Q. Why were these notes, in reference to which you have testified, given in this particular way ? Why given by you and indorsed by Mr. Caldwell ?

A. Because Mr. Caldwell said he had not the money to spare to pay them, but would take them up when they came due.

Q. Was anything said about the appearance of the thing ; that it would be better to fix it in that way ?

A. Nothing whatever.

Q. Has anything been said since in connection with the trial in court at Leavenworth ?

A. I heard Judge Crozier say on the stand, in regard to the two thousand-dollar note, that the note and mortgage were given to him instead of to Caldwell and Smith, that the matter might not have the appearance of subsidizing the press.

Q. He testified to that ?

A. Yes, sir ; or words to that effect.

Q. You have testified in reference to a conversation with Mr. Cald-

well, in which he told you the money paid to Governor Carney was no more than 10 per cent. of the cost of his election. Did he exhibit to you, at that time, any book—memorandum-book or check-book?

A. No, sir.

Q. Did you see any one there in his room?

A. I did not. Perhaps I may have seen his check-book in the room.

Q. Did he, at any time during this conversation, take his check-book in his hand and exhibit it to you?

A. Not open. I think he did, at one time, take his check-book in his hand, and say if he should show me the amount it had cost him I would be astonished.

By Mr. CROZIER :

Q. What was the date of that two thousand dollar note?

A. It was September, 1871, I believe.

Q. Was it not September 8, 1871?

A. I think so.

Q. Was Mr. Caldwell, at that time, understood to be a candidate for the Senate?

A. No, sir.

Q. Did you not say on the stand that that was given in reference to railroad matters?

A. Yes, sir.

Q. And had nothing to do with the senatorial election?

A. Yes, sir; nothing whatever. I stated distinctly that I received no assistance from Mr. Caldwell in connection with the senatorial canvass until I had been supporting him some time.

By Mr. CLARKE :

Q. Then how much did you receive?

A. Twenty-five hundred dollars in connection with this matter.

Q. Was there not an additional sum of fifteen hundred dollars paid afterward in connection with the same arrangement?

A. A two thousand dollar note and a fifteen hundred dollar note, not connected with the senatorial campaign.

By Mr. CROZIER :

Q. I understood you to say a moment ago that there was no condition on any of these advances made by Mr. Caldwell; that you supported him for the Senate?

A. I say so distinctly, because I was supporting him, and had been before they were made; but he wanted a stronger support than I was financially able to give. I told him I was willing to print all the papers he was willing to pay for.

By Mr. CROZIER :

Q. Was it not his idea to strengthen the establishment, or what was it?

A. Yes, sir.

By Mr. ANTHONY :

Q. You mean by "stronger," not a more earnest advocacy, but a larger circulation?

A. Yes, sir. A paper with more reading-matter, more men employed setting type, and a larger circulation.

By Mr. CALDWELL :

Q. Did I make any condition with you, as to your support, before you supported me ?

A. I have stated several times that you did not.

WASHINGTON, *Saturday, January 17, 1873.*

JAMES H. SNEAD sworn and examined.

By the CHAIRMAN, (Mr. Logan :) :

Question. Where do you reside ?

Answer. In Saline County, Kansas.

Q. How long have you resided there ?

A. Since March, 1867.

Q. Where you a member of the legislature that elected Mr. Caldwell to the United States Senate ?

A. I was.

Q. From Saline County ?

A. Yes, sir.

Q. Were you the only member from that county ?

A. I was.

Q. I wish you would state, without questioning, all that you may know in reference to the use of money, or other valuable thing, or the promise of office to procure votes for Mr. Caldwell in that contest.

A. I do not know, directly of my own knowledge, of any money being used.

Q. State what you do know.

A. After going to Topeka, and after the matter had been canvassed some as to Senator, I was supporting Mr. Clarke. The issue was made against me in my county that I was a Clarke man. I ran upon the independent ticket, and was elected upon that issue.

Q. Elected as a Clarke man ?

A. Yes, sir ; I supported Mr. Clarke upon the first ballot. After going into joint convention, believing that Mr. Clarke had no chance, as it was given up, and that we would have to go somewhere, I supported Mr. Caldwell. The night before the joint vote was taken in the legislature for Senator, I was walking down the street. I had been invited to go to Mr. Thaddeus Walker's room. He was a candidate for the Senate, and boarded at the Fifth Avenue Hotel. I met a Mr. Hammond, from Morris County, I believe. I had been acquainted with his people in Tennessee. He spoke to me, and wanted to know where I was going. I said to the Fifth Avenue Hotel. He said he wanted to talk to me. He said there was a chance to make some money.

Q. Who said that ?

A. This man Hammond, or Hammonds. I told him, well what was it. Says he, "You can get some money to vote for Caldwell." I told him I was there in the interest of supporting Mr. Clarke ; that my constituents would expect me to support Clarke, although I was not instructed so. "Well," he says, "I am a poor man and you are a poor man, and we had just as well make some money." I told him that was very true, but at the same time I was not acting for myself, but for the people I represented. He says, "I have a friend down at the Fifth Avenue named Smith." Afterward I found it was George Smith.

Q. George Smith, of Leavenworth ?

A. Yes, sir. Says he, "He is the banker for Mr. Caldwell; and come in anyway and take a cigar; he would like to see you." Well, I went into the room and was introduced to Mr. Smith. He seemed to be busily engaged in an adjoining room with some gentlemen, and told me he would very glad to see me in a few moments. I sat there a few moments and smoked a cigar, and I spoke to Mr. Hammond that I believed I would walk back up the street, and about that time Mr. Smith came and told me he would be at leisure in a few moments. I told him it did not make any difference; I just thought I would go back uptown. He said he would be very glad to see me; if I could not stay, to be certain to call around next morning. I told him I should if I could make it convenient. I did not call back, but went up town, and that night we went into caucus again with Mr. Clarke, and I think we were there until some 3 o'clock in the morning, and after some interview between Clarke's caucus and Crawford's, and we trying to be admitted there to unite upon some man for the interest of the State, as we thought, and when we did not have much encouragement in that caucus, we finally, about 2 o'clock, resolved to do the best we could. Mr. Clarke said, "Gentlemen," I believe his words were, "it is money that is beating me; but you will have to do the best you can," or something of that kind. The next morning I went to the capitol, and the vote being taken I told them I had supported Mr. Clarke, and would be glad to support him, but to come down to the last, as there was no chance for Mr. Clarke, I voted for Mr. Caldwell, for the best interests of my people.

Q. Is that all you know about it?

A. That is all. In regard to them asking me about office before the vote was taken, I saw Mr. Caldwell, and Mr. Caldwell asked me what I wanted. I told him I did not want anything, except we wanted a land-office at our place, and the receivership, I would like for him to have the appointment given to me or some of my friends. He took out a memorandum-book and says, "That is all right; that is reasonable; you shall have it."

Q. Was that given to you?

A. No, sir. After that I received letters from Mr. Caldwell stating that he had done his best in the matter for me, but could not do anything and was very sorry. I heard Mr. Hopkins, a gentleman whose initials I do not know, and who was connected with the Missouri Valley Insurance Company state to me—

Mr. CROZIER. Is not that somewhat remote, Mr. Chairman?

By the CHAIRMAN, (Mr. Logan:)

Q. Was Mr. Hopkins actively engaged there as a friend of Mr. Caldwell?

A. He was.

Q. Did he remain there during all the canvass?

A. He did.

Q. Where did he reside?

A. At Leavenworth, I believe.

Mr. CROZIER. Hopkins is subpoenaed as a witness.

The CHAIRMAN, (Mr. Logan.) I presume upon the rule that has been followed by Mr. Morton, the chairman, where a party has been shown to have been actively engaged as a leading friend of Mr. Caldwell, his declarations may be given for the purpose of following it up by other testimony. I do not wish to change the rulings of the chairman. (To the witness.) State what Mr. Hopkins said to you, if anything, in reference to the purchase of votes.

A. Mr. Hopkins asked me what I wanted. I told him that I did not want anything; that I perhaps would have to vote for Mr. Caldwell, but I would support Mr. Clarke as long as he was in the field. Said he, "There is no chance; we are going to put Caldwell through; we have got the money, and just say what you want in the way of office, or in the way of money, one, two, three, four, five, six, in money; but be moderate as you can." I told him I should stand by Mr. Clarke as long as there was any hopes for him.

Q. It has been testified by Mr. Adams that you stated that \$2,500 or \$3,000 were offered to you?

A. I never stated to him \$2,500. I stated to him that Bayer, a member of the legislature, had stated to me that I should have \$4,000 if I wanted it. Hammond stated I could get from five to six thousand.

Q. Were those men both members of the legislature?

A. No, sir; Hammond was not. He was a man came to me from Morris County. I asked him, "What are you going to do with your member Phinney?" He came down as a Clarke man." He says, "No, we have got him all right." Mr. Bayer was a member.

Q. Bayer said you could get what?

A. He said I could get \$4,000; and, says he, "I am all right; I am all right; me and Caldwell is old friends, and I have fixed my vote up; and if there was any chance I would vote for Clarke; but I have got my matters fixed up, and I am going to vote for Caldwell." He did not state what they were, and I did not ask him.

Q. Was there any amount of money offered to you or any proposition made to you to give you any money for your note?

A. There was not, only just as I have stated.

Q. By Hammond and Bayer, you say?

A. Yes, sir. Mr. Len. Smith, when we were talking in the hall of the Tefft House, did not address his conversation particularly to me, but talked that they had us beat. That was the next morning. I was talking to some one, and said, "Give us a fair chance without money, and we can beat you." Said he, "Well, we have got money enough to beat you."

Q. Who said that?

A. Len. Smith. I said, "Give us a fair chance without money." I do not know whether he directed his conversation to me. I know I did not to him particularly; but it was a talk in the crowd.

Q. Do you know of the use of any money? Did you see any extra amount of money in use there or not?

A. No, sir.

Q. You do not know anything except what you have stated?

A. No, sir.

Q. Did you ever have a conversation with a gentleman named Baker, a member of the legislature?

A. I never did. Baker's seat was contested for, and I voted for him on the contest. Baker did not vote for Senator. The member that was thrown out voted for Senator.

Q. Did you ever have a conversation with Mr. Beates in reference to this subject?

A. I might have talked with Beates; I do not know in what way. I talked that I believed there was money used, perhaps a great deal; and he talked to me backwards and forwards; it was general talk that money was used; but then to my own knowledge, outside my own testimony, I did not know anything about it.

By Mr. TRUMBULL :

Q. Mr. Hammond stated in his testimony that he proposed to you to give \$4,000 ?

A. There was four or five thousand perhaps ; but he proposed that I should go halvers with him.

Q. He proposed to pay you two thousand ?

A. Yes, sir ; he said it was four or five thousand we could get, and he said, " You can get half of it."

Q. Did he go to make the arrangement to get it ?

A. I do not know, only coming down there introducing me to Mr. Smith.

Q. Did he mention to you how he was to get the money ; that it was to come from Smith ?

A. He said it was to come from Caldwell ; but Mr. Smith was his banker. As far as Mr. Hammond said I intimated that I would take any money ; it is wrong. He intimates in his testimony that I said I was a poor man and wanted money ; he said he was a poor man, and I said I was acting not for myself but for the people I represented.

By the CHAIRMAN, (Mr. Logan :)

Q. You say Hammond was not a member of the legislature ?

A. No, sir.

Q. Bayer was ?

A. Yes, sir ; I will state in reference to that testimony of Sharpe in the Kansas report it seems to be a statement ; I was not before that committee ; it seems to be the declaration of Hammond to Sharpe that Sharpe tells ; if he made those declarations they are false, because I went back. At the time he reports me as being drunk I was in Clarke's caucus until 2 or 3 o'clock next morning.

By Mr. CROZIER :

Q. When Hammond approached you did he represent that he had any authority from Mr. Caldwell or any of his friends to make any arrangement with you in reference to your vote ?

A. He said he had from Mr. Smith ; and also stated that Mr. Simcock had all the money he wanted to use.

Q. What Smith ?

A. Mr. George Smith. I think it is George Smith. It is the one that roomed at the Fifth Avenue, and I think his name was George Smith.

Q. Was the proposition made by Hammond to you substantially this : that you and he should join your forces together ; that he would sell your vote to Mr. Caldwell or his friends for \$5,000 or \$4,000, or whatever it was, and that you two would divide the proceeds ?

A. No ; it was in this way : Says he, " I can sell your vote. I am authorized to buy votes ; and I can make something and you can make something, and I can get four or five thousand dollars ; but I have got to buy them as low as I can."

Q. What portion of what he could obtain per vote was to be your share in case you voted for Mr. Caldwell ?

A. The way he spoke I suppose he was to get the money and give me half.

Q. Did you assent to it ?

A. No, sir.

Q. You spoke of having a conversation with Mr. Hopkins ?

A. Yes, sir.

Q. Did he represent that he was authorized by either Mr. Caldwell or his friends to buy votes for Mr. Caldwell?

A. He did not positively say that he was. He just said, "I am working for Caldwell's interest." I had been acquainted with Hopkins some time. He wanted to know where I stood. I told him I stood by Clarke. He told me there was no chance for Clarke, and I had better go for Caldwell.

Q. Did you act upon that suggestion?

A. I did not.

Q. The next interview you spoke of was with Bayer?

A. Yes.

Q. Where did he live?

A. He lived in Ellsworth County, west of me.

Q. The adjoining county.

A. Yes, sir.

Q. Did you know Bayer before that?

A. Yes, sir.

Q. Where did he live?

A. In Ellsworth.

Q. Where before that?

A. I do not know. He told me he was an old acquaintance of Mr. Caldwell; that he was a freighter, and he freighted under him.

Q. What was his business at that time?

A. I am not certain. I think he was a freighter. He broke up just after that.

Q. Where did the conversation with Bayer occur?

A. There were several conversations with him during the canvass, at the Tefft House and on the way to the capitol.

Q. Where is Bayer now?

A. I do not know.

Q. Did he not leave the country clandestinely?

A. I cannot tell you. There was a judgment rendered in my court against some of his securities.

Q. He is not in that country at all, is he?

A. I do not think he is; I cannot be positive.

Q. Did he not leave the country under a cloud, a financial cloud?

A. I do not know whether he left the country. There is considerable debt hanging over him.

Q. When he spoke of \$4,000, did he represent himself as representing Mr. Caldwell or any of his friends?

A. He said he had talked with Mr. Caldwell and wanted to—

Q. Did he represent to you in that or any other conversation that he was authorized by Mr. Caldwell or any friend of Mr. Caldwell to offer money or negotiate on a money basis for votes?

A. Yes; he told me that Mr. Caldwell had told him that he could have \$4,000.

By the CHAIRMAN, (Mr. Logan:)

Q. Who was that?

A. Bayer. He was the only person. He seemed to be intimate with him, because he told me he had freighted under Mr. Caldwell, and he was a particular friend of Mr. Caldwell's.

By Mr. CROZIER:

Q. Was not he a blacksmith?

A. Yes, sir, I believe so.

Q. At any time when he had these conversations with you did he

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represent to you that he had received money himself as a consideration that he should vote for Caldwell?

A. No; he says, "I am fixed up all right; I am all right." He did not tell me in what way.

Q. Did you have any conversation with him after the election?

A. No, sir; all that was before.

Q. Do you know whether he did get anything as a matter of fact?

A. No, sir.

Q. What considerations influenced you to vote for Mr. Caldwell the second time?

A. After we had caucused for Clarke, the night after the first vote, we found we could not gain any strength particularly, and some of the principal of Mr. Clarke's friends calculated, or kept sloughing off; and we then sent a committee to interview Mr. Crawford's caucus.

Q. We have had all that. What I want is not what influenced you to desert Clarke, and not vote for Crawford, but what influenced you to vote for Caldwell?

A. I am telling you. I could not get a chance to vote for any one that was known to the people. Mr. Crawford would satisfy my people better than any one except Mr. Clarke. Mr. Crawford's caucus would not let us in. Some one said Mr. Caldwell was buying his way in. I told them I had not got his money, and had a clear conscience; and if I was to be snubbed by other caucuses, I should go and vote for Mr. Caldwell; and I did vote for him.

Q. Did you vote for Mr. Caldwell on the ground that you thought it was for the interest of your people in public affairs that he should be elected?

A. Yes, sir.

Q. That was the ground on which you voted for him?

A. Yes, sir. He was not my choice; but when I did vote for him that was the way.

Q. How was it you had such confidence in Mr. Caldwell being a proper man to represent your constituents if you believed this statement about the use of money?

A. As to that concern, I believed it in this respect: When Mr. Caldwell came out it was little expected. He was not known as a politician, and it was rumored, even before I went to the legislature, that there would be money enough to put him through. I did not know but what there was money being used from the conduct of certain parties.

Q. Did you suppose, when voting for Mr. Caldwell, that your vote would be approved by your constituents, if your were voting for a man who would buy his way through?

A. Well, I do not know; to come down to it, when the most of them are elected there is some money used.

Q. What is your own explanation?

A. I would rather have voted for somebody else, but I could not under the circumstances.

Q. Do you say you voted for Mr. Caldwell as the best man for your constituents, but believed him, yourself, to be buying his way through?

A. I did not say the best man.

Q. The most available man?

A. Yes, sir; he was the most available man, after being snubbed by the other caucus and being driven off by the other caucus. I was satisfied at the time that Mr. Caldwell was going to be elected.

Q. Were there not two other candidates?

A. Mr. Crawford and Mr. Caldwell were the only candidates then.

Q. Was not Walker then a candidate?

A. I believe he had withdrawn. Ross was a candidate.

Q. You have not answered my question yet.

A. I will try to.

Q. How do you reconcile with your notions of propriety or right, voting for Mr. Caldwell as the best man for the interests of your constituents, if you believed him to be buying his way through the legislature?

A. I will answer. Mr. Caldwell may have been buying his way through the legislature, and yet have done a great deal for my constituents.

Q. You did not care whether he bought his way through or not?

A. I did not stop to govern myself about what others had done. I voted for him, yet at the same time I believed money was being used.

By Mr. TRUMBULL:

Q. You stated you did not assent to Mr. Hammond's proposition when made to you. Did you dissent?

A. Yes, sir.

Q. Did you tell him so?

A. I told him I came to represent my people, and if I was representing myself only it would be different.

Q. When he proposed to get \$4,000 and divide it with you, you dissented?

A. Yes, sir.

Q. Then how came you to go with him to see Mr. Smith about it?

A. I was going down to see Mr. Walker, but Mr. Walker was not in, and he said, "Walk in here and take a cigar," and I went into the room.

Q. You never got any money in any shape for your vote?

A. No, sir.

Q. Nor had the promise of any except this from Hammond?

A. Yes, sir; and what Mr. Bayer told me I could get.

Q. And you did not get the office which was promised to you?

A. No, sir; Mr. Caldwell wrote to me that he was situated so he could not carry it out.

By Mr. CROZIER:

Q. Did you write to Mr. Caldwell on that subject?

A. Yes, sir.

Q. When?

A. Some time after the legislature——

Q. Did you receive a letter from him?

A. Yes, sir.

Q. When was that?

A. I think it was some time in the summer or early in the spring.

Q. Of 1871?

A. Eighteen hundred and seventy-one.

Q. Where is that letter that you received from Mr. Caldwell?

A. It is at my place or residence, somewhere among my papers.

Q. Did you preserve it?

A. I think I have it among my papers; I am not certain.

Q. That is in reply to one you wrote?

A. Yes, sir. I am not certain but what Mr. Caldwell wrote me two letters; I am not positive. Mr. Caldwell wrote to me that he would have liked to have secured me that position, but not having it in his power, why, he was very sorry. It was a very satisfactory letter to me.

Q. Was there anything in that letter you wrote to Mr. Caldwell or

any letter you wrote to him, in reference to the removal of the land-office from Junction City to Saline?

A. No, sir. The land-office, it was a foregone conclusion, would be removed. I never wrote to him about that. I believe that was a conceded fact on all sides.

Q. When you met George Smith did he say anything to you about being the banker of Mr. Caldwell?

A. No, sir.

Q. That was an expression of Mr. Hammond?

A. Yes, sir. Mr. Smith said no more than what I told you, that he would be glad to see me and wanted to see me; and that was all the conversation I had with him.

WASHINGTON, D. C.,

Monday, January 20, 1872.

10 O'CLOCK A. M.

Mr. Caldwell having stated that he had not had an opportunity to read over the evidence of Thomas Carney, and that he desired to do so before cross-examining the witness, the committee took a recess until 1 o'clock.

1 O'CLOCK P. M.

THOMAS CARNEY recalled.

The WITNESS. I desire to say to the committee that I noticed Saturday a statement made by a witness named Buzick, before this committee, in reference to a letter that concerns myself, and I would like to explain that for a moment to the committee. It was concerning a letter I wrote to a gentleman named F. P. Baker.

The CHAIRMAN, (Mr. Carpenter.) Make any explanation you wish to.

The WITNESS. I held Mr. Baker's note for \$900, which I had held for some three or four years, and I sent a gentleman down to get it secured, to get a note secured by a mortgage on a piece of land in Southern Kansas.

By the CHAIRMAN, (Mr. Carpenter:)

Question. Is that the letter he opened by mistake?

Answer. After I had done so I returned to Mr. Baker his old note. He was then a member of the legislature. I addressed my note to him at Topeka, with a few lines, saying "I hereby inclose you your note," &c. Mr. Buzick got hold of that note and opened it, and kept it from Mr. Baker for two or three weeks, as I remember the time, and went about intimating that there was something wrong in it, something political, something under cover about this note. I heard of that. Two gentlemen informed me of it, and I then wrote to Mr. Fenlon, who was a friend of mine, and a lawyer there, and requested him to go and tell Buzick, if he did not give that letter back, he would be prosecuted at once. After the lapse of two or three weeks he gave the letter up to Baker. I went up there, and Mr. Fenlon told him that if he did not acknowledge in writing that he had lied—

By Mr. CROZIER:

Q. Were you present?

A. I say that I saw the paper myself.

Q. Did you hear Mr. Fenlon tell him that?

A. I sent such a paper for him to sign; that he had willfully lied, and I requested him to take it to him to sign, and if he did not do it to prosecute him. I afterward thought over it, and as he was such a poor, miserable, contemptible fellow, I cared little about him, and I did not know whether he was prosecuted or not. I did not know he was indicted at the time until it was stated to me since; in fact, that letter had no reference whatever to politics, but was simply inclosing to him an old canceled note. I have the note and the mortgage on Mr. Baker's place to-day, which was taken in lieu of it. That was all there was about that letter in the world.

Mr. CROZIER. In view of the statement of this witness, that he was a reluctant and not a voluntary witness, I desire, in order to show the disposition with which he testifies, to have the letter, referred to by Mr. Sidney Clarke, and submitted by him to the chairman, (page 22,) from this witness, to be produced.

Mr. CLARKE. I stated at the time that the letter was of the nature of a private letter, and therefore I did not produce it. Governor Carney is here now himself, and I will be glad if the request was made to him for the letter. I decline to give it up except by the official request of the committee.

Mr. CROZIER. The letter, which was shown to the chairman, will show that the statement of this witness that he was not a voluntary witness, and that his testimony was dragged out of him——

The WITNESS. I think if you will refer to my testimony, you will find that I stated that I should not have done so had not Mr. Caldwell and Mr. Smith made these matters public in Kansas as well as here.

Mr. CROZIER. The record will show what the testimony was.

The WITNESS. And that I owed it to truth and justice. That letter was written last spring, after the investigation at Topeka, and after Mr. Caldwell had stated to the county commissioners of Leavenworth that he owed me this money. He did it to get his taxes reduced, and then it became public all over town.

By the CHAIRMAN, (Mr. Carpenter:)

Q. Does the letter relate to the subject about which you testified?

A. Only incidentally. It will show, of course, what was common rumor, and something of this kind——

By Mr. ALCORN:

Q. Does this letter refer to any other subject than this senatorial contest? Is there anything of a private nature in it, as of a business transaction between you, that was confidential in its character and outside of this contest, the investigation of which has been referred to this committee?

A. Really, Mr. Alcorn, I do not remember. I wrote him a letter. I wrote him several letters in the freedom of writing, and I do not remember what particular letter is referred to, or about what subject. There is nothing in the letters that I am ashamed of, I think.

Mr. CROZIER. I am willing that the chairman shall look at this letter, and determine whether it is a proper letter to be introduced.

Mr. ANTHONY. I was about to suggest that myself, as this investigation is public. I do not think private letters should be spread out without their being examined.

The CHAIRMAN, (Mr. Carpenter.) The better way is to have the room

cleared and leave the letter with the committee. I do not want to see anything the rest of the committee do not see.

[The committee-room was cleared for deliberation, and, after some time so spent, the doors were reopened.]

The CHAIRMAN, (Mr. Carpenter.) The committee are of opinion this letter should be delivered to Mr. Caldwell and his counsel, and if they desire to introduce it in evidence they can do so. If not, they will return it at once without taking any copy of it or making it public.

[The letter was handed to Mr. Caldwell and his counsel, who retired to peruse it.]

The CHAIRMAN (Mr. Carpenter) to Mr. Clarke. Have you the envelope which came with it?

Mr. CLARKE. I cannot tell whether I have it or not. I have several letters received from him about that time.

The CHAIRMAN, (Mr. Carpenter.) Can you tell by the post-mark?

Mr. CLARKE. No, sir.

The CHAIRMAN, (Mr. Carpenter.) Where did you receive that letter?

Mr. CLARKE. In Washington. Here is an envelope post-marked "St. Louis, the 23d," which would show it is not the one, as the letter was dated the 9th. I have no more envelopes of the kind.

Mr. CROZIER. I call the attention of the chairman to the card on the corner of the envelope of Messrs. Carney, Garrett, Fenton & Co.

By the CHAIRMAN, (Mr. Carpenter:) [Submitting to the witness the envelope produced by Mr. Clarke.]

Q. Do you know whether that is the envelope?

A. I do not know whether it is for that letter or not. That is my handwriting and this is our envelope.

Q. These other letters were written from the same place and in similar envelopes?

A. Yes, sir; from the date of the letter and the post-mark, the 23d, while the letter was written on the 9th, I should think it was not the one.

Q. Was this letter, just produced here, mailed immediately upon being written?

A. Yes, sir; it was written probably in the evening and mailed next day.

Mr. CROZIER, (to Mr. Clarke.) Is this the envelope in which it was sent?

Mr. CLARKE. It is the envelope in which I have had the letter. I do not think it is the envelope in which the letter originally came. It certainly is not.

Mr. CROZIER. I would like to have the letter read and go into the record.

By the CHAIRMAN (Mr. Carpenter) [to the witness:]

Q. Is that letter in your handwriting?

A. Yes, sir.

Q. Was it written at or about the time it bears date?

A. It was written on the very day, I presume, that it bears date.

Q. Was it mailed by you on that day or the next day to Mr. Clarke, at Washington?

A. Yes, sir.

Q. Will you now read the letter?

[The letter was read aloud, as follow:]

Thomas Carney, A. Garrett, E. Fenlon, J. R. Caldwell, C. H. Ingram.

OFFICE OF CARNEY, GARRETT, FENLON & CO.,
WHOLESALE GROCERS, 513 AND 515 NORTH SECOND STREET,
Saint Louis, April 9, 1872.

HON. SIDNEY CLARKE:

MY DEAR SIR: I notice in the telegraphic dispatches from Washington that the Vice-President has laid before the Senate the testimony taken and report made at Topeka last winter concerning Senators Pomeroy and Caldwell.

I do not know what the testimony and report will show, nor do I know what the Committee on Elections, to whom I learn the whole matter has been referred, will do, but I do know that if there ever was a case that deserved to be thoroughly investigated and exposed, it is the high-handed bribery and corruption used by Senator Caldwell to secure his election. I need not repeat to you what every man in Kansas knows, that up to the meeting of the legislature he was without, I might say, a vote for that office; and not until he almost publicly proclaimed it that he was prepared to spend a quarter of a million dollars did any one even so much as concede he had any sort of a chance for an election. I can name you at least half a dozen respectable gentlemen who would swear that Senator Caldwell and his friend Smith told them they would have the office if it cost them that sum. Mr. Caldwell so told me. He further told me that he paid James F. Legate \$1,000, and further named to me some fourteen others to whom he gave money for their votes, some of them as much as \$2,500. He further told me that his election cost him a large sum, much larger than he expected when he went into the fight; said that had he realized that it would have been so expensive he would never have been a candidate.

I know of my own knowledge of his paying and authorizing large sums of money to be paid for votes, and Mr. Caldwell knows that I know it, and he knows that I can name other gentlemen who know it, and yet none of those men were before the examination committee at Topeka. Some of them were out of the State during the examination at Topeka, and those that were not, it did not seem to me that any effort was made to procure their attendance. It certainly was so in my case. I was at Leavenworth a week during the examination, and the committee knew it, and did not send for me until it was known I had left for this city.

Now, under this state of facts—and they are *facts*—I should not be surprised if the evidence sent from the committee at Topeka was small and uncertain as to the guilt of Caldwell, especially when you and I know that he had friends there who were vigilant and active to cover up and hide every possible thing that tended to show anything against Mr. Caldwell.

I sincerely hope, both for the credit of Kansas and the United States Senate, that the matter will not be passed over without given Mr. Caldwell a chance to prove his innocence, if he even dares to make such a plea. I hope the Senate will authorize the committee to send for persons and papers, and they need not send for many to be satisfied that Mr. Caldwell holds his seat to-day solely by the free use of money, and money alone. I do not know that this state [of] things is desired to be known by the Senate at this particular time, now that we are on the eve of another presidential election, and I for one, deeply deplore such exposures, especially the necessity for them, but it seems to me the time has come when an example should be made for the general good of the country.

I will not dwell longer on this theme; the facts connected with it are too sickening.

Wishing you a pleasant visit and safe return,
I am, very truly, yours,

THOS. CARNEY.

[The envelope referred to above is post-marked, obscurely, "Saint Louis, April 23d," and bears upon the cover "Return to Carney, Garrett, Fenlon, & Co., 513 and 515 North Second street, Saint Louis, Missouri, if not delivered within ten days."]

By Mr. CROZIER:

Q. How long, preceding the time that this letter was written, was it that you had last seen Mr. Sidney Clarke?

A. I do not recollect sufficiently to state positively.

Q. Were you at Cincinnati at the Cincinnati convention?

A. Yes, sir; I was there when the Cincinnati convention met, or the day before.

Q. In what month was that?

A. It strikes me that was in May; it seems to me the 20th of May, though I would not be positive.

Q. Was it not the first day of May, 1872?

A. Upon my oath I could not state of my own knowledge. The date has positively escaped me. I know it was in the spring, and I think it was in May, but I could not state the exact date.

Q. Did you see Mr. Sidney Clarke there?

A. I did; I saw him.

Q. Was there any conversation between him and yourself at Cincinnati at that time in reference to this subject?

A. Yes, sir; it was talked of.

Q. Was anything said between you and him as to your writing a letter to Mr. Clarke at Washington to be shown to Senators?

A. No, sir; I had written that letter before I met him in Cincinnati.

Q. Just answer my question. I am asking about this one.

A. No, sir; I did not write him a letter for any such purpose.

Q. Did you know whether he had shown the letter to Senators from any statement of his?

A. I think he stated to me that he had shown the letter to one or two persons. I do not think he stated whether they were Senators or not. I do not remember that he stated that they were Senators.

Q. What persons?

A. And I forbade him then doing so.

Q. What letter or letters?

A. That letter.

Q. This letter that has been produced here?

A. Yes, sir.

Q. When did you next see Mr. Clarke after you had written this letter?

A. I met him at Cincinnati. He telegraphed to me to meet him at Cincinnati, and I went there.

Q. Who was present at any conversation you had with Mr. Clarke in reference to this Caldwell matter in Cincinnati?

A. Well, I could not state. There were a good many people there; a good many persons coming in and going out.

Q. Do you recollect having a conversation there in the presence of Byrom Sherry?

A. I recollect he was there.

Q. Do you recollect a conversation in his presence about this matter?

A. I think I recollect that Byrom Sherry, and Mr. Parrott, and Mr. Prouty were present in the room, and perhaps others.

Q. Do you recollect whether at that time ex-Senator Ross was present?

A. I do not remember of meeting Mr. Ross in Cincinnati at all.

Q. Was the subject of conversation there in which Mr. Clarke participated concerning what you had written to him?

A. Yes, sir; Mr. Clarke mentioned the matter.

Q. Mentioned the matter of your having written?

A. Yes, sir.

Q. What did he refer to?

A. To that letter.

Q. Now, Governor Carney, this letter bears date the 9th of April?

A. Yes, sir.

Q. That convention was in May, and you were there in conversation with Mr. Clarke, you say, and he referred to this letter you had written on the 9th of April. Please explain how that could have been.

A. How is that? I don't get your question. If the convention was in May, and the letter was written in April, the letter was written before the convention, and it was very natural to talk about it afterward.

Q. You say this letter was written the 9th of April?

A. It is so dated, and I have no doubt that I dated it correctly.

Q. How did it happen that you were conversing about this letter with him?

A. Because Mr. Clarke had received it.

Q. Did he mention the fact in company with gentlemen there assembled that he had received a letter from you?

A. He did.

Q. What object had he in mentioning that?

A. Well, I don't know, sir. A man generally knows his own thoughts best.

Q. In that conversation did he say he had shown that letter to a Senator?

A. I do not remember that he did mention a Senator. I don't remember that he said a Senator.

Q. Are you sure he did not say a Senator?

A. I understood that he did not. I do not remember.

Q. Do you know where Mr. Clarke was on the 9th or 12th of April?

A. He must have been in Washington, for I addressed that letter to him at Washington.

Q. Do you know whether he was or not?

A. I presume I did know he was there or I should not have addressed him a letter there.

Q. Did not Mr. Clarke advise you at the time that he had shown this letter to Mr. Trumbull, of the Senate?

A. No, sir; not to my knowledge.

Q. And to Judge Thurman?

A. Not to my knowledge.

Q. And to Mr. Hill, of this committee?

A. No, sir; not to my knowledge.

Q. You say he did not?

A. I do not remember it.

Q. What was the occasion, governor, of your writing this letter to Mr. Clarke? Why did you write it to him?

A. Well, I wrote it because I felt very much outraged by the exposé

that Mr. Caldwell and Mr. Smith had made about what I regarded as a private matter between us. They had made it public all over Kansas, and at Topeka during the sitting of the legislature. I had just got the report of the Kansas legislature; I had read that and learned things that I did not know before; it had been made public, and I presume I felt a good deal aggrieved.

Q. What things do you refer to that were sacred and which had been made public?

A. I refer to the copying of the paper or agreement that Mr. Smith and I made, which, it had been agreed, no man except our God should know anything about. When I learned that he had given it out to be copied and handed around of course I did not feel very pleasant.

Q. Then your object was not so much to purify the Senate as to be revenged on Mr. Caldwell?

A. It was for both reasons, to be frank with you.

Q. I will ask, governor, if, at the time you wrote this letter to Mr. Clarke, a certain note for \$5,000, part of the \$15,000 originally agreed upon to be paid you, had been paid?

A. I do not remember whether it had or not; I can't state the time when that was paid without referring to memorandums.

Q. I will ask, governor, if at the time you met Mr. Clarke at Cincinnati, or at any other time immediately preceding the writing of this letter, Mr. Clarke was endeavoring to obtain any money from Mr. Caldwell?

A. Not to my knowledge.

Q. Did he say anything about it?

A. No, sir.

Q. How did it happen that you wrote to Mr. Clarke about it rather than somebody else?

A. Well, Mr. Clarke was the only man that seemed to be leading in the matter. Mr. Clarke had passed through Saint Louis some time before that and we had talked about it, and I suppose it occurred to me to write him a letter, and I did so; I cannot now go back and state exactly what were the influences at the time; the thing has passed out of my mind.

Q. Has there been other correspondence between you and Mr. Clarke on the subject of this senatorial election in Kansas?

A. There have been several letters passed between us on this subject.

Q. You were acquainted with some Senators?

A. What Senators?

Q. Senators of the United States.

A. Oh, yes; I knew some of them, sir.

Q. I understood you to say the other day in your examination—and if I am not right, the record will show—that you did not know, of your own knowledge, of any person having been paid for his vote at Topeka, for or by Mr. Caldwell. Did you say that?

A. Certainly; I stated I did not see the money paid. What I knew was what was told me by Mr. Smith and Mr. Caldwell.

Q. Did you not say that, of your own knowledge, you knew of no money being paid?

A. I suppose I did. I did not see the money paid to any member.

Q. How do you reconcile that with your statement in this letter, "I know, of my own knowledge, of his paying and authorizing large sums of money to be paid"?

A. I reconcile that in this wise: in the freedom of writing and talking a man would say things, perhaps, a little freer and fuller than when

ruled down to the strict letter of the law to state, "what do you know, of your own knowledge?" Now, when Mr. Caldwell told me, then I felt that I knew it. When I heard Mr. Smith and Mr. Caldwell talk about it, it occurred to me that I knew it. In that letter I say it, but they had admitted it; so I thought I knew it.

Q. This letter has this clause in it: "Now, under this state of facts, and they are facts," with the word fact underscored. How do you reconcile that with your statement, made the other day, that you knew nothing, of your personal knowledge, about money being paid for votes?

A. Well, I do not suppose, judge, that there was anybody at Topeka but what, reading that letter, would say they were facts; that there was money used; that the air was so full of it, the statements were so frequently made by so many gentlemen in so many ways, and so much money used, that any man must see they were facts—that there was money used. Nobody denies it, or pretends to deny it.

Q. Do I understand you to mean, in regard to the statement in this letter, and the statement you made here Saturday, which is inconsistent, that one or the other must be untrue? Do you mean that?

A. No, sir; I do not mean that.

Q. I understood you to say——

A. I mean that the letter is true, and my statement is true. The only difference is, that the letter is written in the freedom of writing and talking, and is fuller than I would be allowed to state under oath; that is, I consider I would have no right, while I know a thing as well as I know anything in the world—for instance, that you had got money—I would have no right to state it under oath unless I actually and personally knew it to be a fact. While I may be morally convinced of it as well as anything in the world, I could not say I know it in such a way as to be allowed to state it under oath. There were many things done there that I know, and that you know, judge, about that election.

Q. I am not on examination. I understand you to mean by all that, governor, that when you say you know of your own knowledge in this letter, you really mean that you do not know of your own knowledge?

A. I mean, or I meant, that I knew it as well as I could know anything in the world, that there were men that paid money out, and said they had done so, and who had been instructed to do so, for votes, and had come back and had reported that they had done it. There were men there who gave——

Q. I am not asking for your reasons for making that statement, but I ask whether your statements are consistent?

A. I have stated ——

The CHAIRMAN, (Mr. Carpenter.) That is a question for the committee to answer.

By Mr. CROZIER:

Q. Governor Carney, I will ask if in the interviews you had with Mr. Clarke at divers times in reference to this matter, Mr. Clarke did not inform you he was pursuing Mr. Caldwell for money on account of his expenses during the senatorial election?

A. He never did; on the contrary, he said he had taken good care not to talk to Mr. Caldwell on the subject.

Q. Did he say to you that Mr. Caldwell had agreed to re-imburse him for his expenses at Topeka, in consideration of his friends going for Mr. Caldwell?

A. No, sir.

Q. And that he had failed to do it?

A. No, sir.

Q. Did he not use harsh language in reference about Mr. Caldwell remaining in the Senate?

A. He has.

Q. Upon what ground did he put it?

A. That he violated his promises with him in every way.

Q. What did he say the promises to him had been?

A. I think one was that he was to assist a certain gentleman to the post-office in Lawrence. I heard him refer to that.

Q. What else?

A. I heard him say he had made Mr. Stevens a promise that had not been complied with—Mr. R. S. Stevens.

Q. Then you desire to be understood as saying that Mr. Clarke never stated to you that he was pursuing Mr. Caldwell on his own account at all?

A. No, sir. You asked me if Mr. Clarke had stated that he was doing it because he refused to pay him money. I say Mr. Clarke never said that Mr. Caldwell ever promised him any money.

Q. Did he say he was pursuing Mr. Caldwell for any money?

A. No, sir; never.

Q. Never stated anything of that sort?

A. No, sir.

Q. Were you, at the time you wrote this letter, pursuing Mr. Caldwell for money?

A. No, sir.

Q. And had no reference to money?

A. No, sir; I had no claim against him.

Q. He then owed you \$5,000?

A. No, sir; I had Mr. Lucian Scott's note for it.

Q. Had you on the 9th of April?

A. Yes, sir; either his note or the money.

Q. The 9th of April is the date of this letter?

A. Yes, sir. And I had his note. His note was given me in February; it was payable forty-five days after date. It must have been due—let me see: February, March—it must have come due on or about the first of April.

Q. Had it been paid on the 9th of April?

A. I can't state without referring.

Q. How was that note collected?

A. It was sent up to your bank—First National Bank.

Q. Was it paid there?

A. Yes, sir.

Q. Was it an ordinary negotiable note?

A. The note was payable to me personally.

Q. It was not negotiable?

A. It was not payable to order.

Q. Then you say that, at the time you wrote this letter, Mr. Caldwell did not owe you this \$5,000, nor did Mr. Scott; that it had been paid?

A. I don't know. I only state that Mr. Scott's note was given some time in February, and payable forty-five days after date. It must have fallen due somewhere about the first of April, but I cannot state exactly the date. Mr. Caldwell did not owe me, certainly. The Scott note may not have been paid, but the note was paid promptly at maturity, as I knew it would be, for Mr. Scott is a very responsible man.

Q. Was it paid at maturity?

A. It was, or in one or two days after; but it was my fault in not getting it there in time.

Q. Was it not in the Second National Bank at one time?

A. Yes, sir; and returned to me. I got it back and sent it to you the day after it was due. I think it was gotten back the day after maturity.

Q. Why was it returned to you from the Second National?

A. Mr. Scott requested it, and preferred it collected through his bank, or the First National.

Q. How was that request made manifest to you; you were in Saint Louis, were you not?

A. Yes, sir. It was made manifest to me—I will not say whether by Mr. Fenlon, who had just come down from Leavenworth, or by letter from Mr. Scott.

Q. You said, the other day, that you had an interview with Mr. Caldwell, and Mr. Len. T. Smith, and Lucian Scott, in the parlor of the First National Bank, ten days before the meeting of the legislature?

A. It was before the meeting some days. I would not be exact as to the dates.

Q. Did Mr. Scott and Mr. Smith and Mr. Caldwell hear all the conversation that took place there on this subject?

A. Yes, sir; I presume they did. They were all there.

Q. Who made the first proposition about giving or taking \$15,000?

A. Well, they asked—of course it must have been me, because they asked me what I would take to support him.

Q. You made the first proposition?

A. They asked me, and I said that I might be induced for that sum of money, or something of that kind.

Q. Had you told them previous to the time you mentioned the \$15,000 that you were not a candidate, and would not be a candidate under any circumstances?

A. I presume I did.

Q. Now, tell us what the \$15,000 was for.

A. They asked me to go up there and devote my time and expenses for their benefit.

Q. That was what the \$15,000 was for?

A. That was what was proposed.

Q. You were not to be a candidate even if no money were paid you?

A. I did not expect to be then.

Q. How was that agreement evidenced? Was there any memorandum made of it at any time?

A. Yes, sir; there was.

Q. It was not consummated there?

A. No, sir.

Q. In the conversation in the back room of the First National Bank, did you say to Mr. Caldwell, after the sum of \$5,000 had been mentioned, that you would give him twice that amount if he would get out of your way, or words to that effect?

A. No; I didn't say that. I didn't say twice that amount.

Q. Well, any amount?

A. I think I did.

Q. What amount did you fix?

A. I think I stated it in this wise: I said there was a possible chance, or probability, or possibility; and the only chance there was for a man north of the river was that the candidates south would get into a quarrel among themselves, and, perhaps, then there might be a chance for somebody north of the river; and, in that case, I would cheerfully give him

b1d b1c

q p1q p1q

b1d b1d b1d

b1d b1d b1d

the sum I asked if he would get out of the way and let me have the field, and I would not ask any service from him.

Q. Give him the sum that you asked?

A. Yes, sir.

Q. You did not say you would double it?

A. No, sir; I did not, that I remember.

Q. Are you pretty sure about it?

A. I don't remember it.

A. How did you happen to meet Mr. Smith at Topeka, when you went there?

A. Mr. Smith came to my room.

Q. Had you not requested Lucian Scott, before you went up there, to write to Mr. Smith that you were going, and request Mr. Smith to call on you?

A. No, sir; not in that shape. The day I was going up there Mr. Scott came to me and asked if I was going up. I told him I thought I would. He said he hoped we would make some arrangement. He said he hoped that we would not go up there and fight each other, but make some arrangement when I got to Topeka. I said that was for them to do. I had said that I was going to see about it, and I said, "If they want my services in the matter it is for them to speak about it and see about it." He said, "I will write a letter." I said, "You should be careful how you write it." He said, "Suppose you dictate it;" and so I dictated the letter he wrote.

By the CHAIRMAN, (Mr. Carpenter:)

Q. That he wrote to Smith?

A. Yes, sir.

By Mr. CROZIER:

Q. Was that letter not written at your own request? You say you do not think it was.

A. It was in this wise: He said he wished me to give him the language and he would write to Mr. Smith. He spoke of writing and then I said, "I wish you would be careful about what you say;" and then he said, "Suppose you dictate it;" and I sat down and blocked out the letter for him.

Q. Now, I ask you directly, Governor Carney, was that letter written by Mr. Scott at your request?

A. It was copied at my request. The letter was rather copied than otherwise.

Q. Was it not made at your request?

A. I suppose it so turned out, but it was not originally started so. As it was copied, I suppose it would go in that way.

Q. I ask whether the communication by Mr. Scott was not made at your request?

A. I suppose it was or could be so construed.

Q. You went up to Topeka and Mr. Smith called on you, I understood you to say the other day, and you then agreed to take \$15,000 for something. Now, I will ask you what was the consideration for that \$15,000 that Mr. Smith agreed to pay you?

A. That I was to stay there and help assist in electing Mr. Caldwell.

Q. Was there a memorandum of the agreement in writing?

A. There was.

Q. Who signed it?

A. I did.

Q. Can you give the committee the contents of that agreement?

A. No, I could not; I tried the other day. I don't remember any further than it was——

Q. Any further than you stated the other day. Is that what you mean?

A. I can't say further.

Q. Was it part of the contents of that paper that you remained there and assisted Mr. Caldwell in his election?

A. Well, I don't know whether it was mentioned in the paper or not, but that was the understanding.

Q. Was it known at the First National Bank, when you had the first conversation, that you were to go to Topeka and assist Mr. Caldwell if the bargain was finally consummated?

A. I think it was by those present.

Q. If it had been mentioned in the conversation at the First National Bank, and between you and Mr. Smith at Topeka, and you were writing an agreement about it, putting the agreement in writing, can you explain why that was omitted, if it was omitted?

A. Why it was omitted? I don't know that it was omitted, and I don't know but it was.

Q. If it was omitted, can you explain why it was omitted?

A. No, I cannot.

Q. When you said to Mr. Caldwell in the back room of the First National Bank that you would be willing to give him \$15,000, or whatever sum it was, if he would get out of your way, what was his reply? Can you give it?

A. His reply was that he had announced himself as a candidate and that I had not; that I was no candidate and he was. He said that he had burned his bridges behind him, and was going to go through and could not look back; that he was going ahead.

Q. Did he say no amount of money would induce him to retire?

A. He said he could not retire; that he had announced himself as a candidate.

Q. Did he say that no amount of money would induce him to retire?

A. I do not remember it.

Q. Who did he say had put him on the track?

A. I do not know that he said that even.

Q. Did he say his friends had put him on the track, and no amount of money would induce him to retire?

A. He said he had published a card announcing himself as a candidate, and I took it for granted that he had as much to do with putting himself on the track as anybody else.

Q. (Submitting a paper.) Will you look at that paper, or so much of it as is exposed there?

[The witness examined the paper.]

Q. Will you tell the committee whose handwriting that is, if you know?

A. I do not know, but it looks very much like James L. McDowell's handwriting. I do not state that it is.

Q. Have you seen his handwriting?

A. Yes, sir.

Q. What is your impression?

A. It is my impression that it is his handwriting, but more from the fact that I understood he copied the agreement than from my knowledge of his handwriting.

By Mr. TRUMBULL :

Q. Do you know his signature ?

A. His signature is not here.

Q. Do you know it ?

A. Yes, sir.

Mr. CROZIER. Mr. McDowell is present ; his signature is there ; his name is on the paper ; but I did not suppose that a proper way to prove it, and so I folded that part of the paper down.

By Mr. CROZIER :

Q. Is that a copy of the agreement ?

A. I cannot state now ; there are some parts that I remember to be like it. I wrote the paper myself hastily and handed it to Mr. Smith, and Mr. Smith handed it to me afterward, and I, without reading it, saw it was the paper and tore it up. I cannot state positively that this paper contains every word for word as it was written, but I presume it does, though I cannot state it. I do not remember.

The CHAIRMAN, (Mr. Carpenter.) If Mr. McDowell is here let him be called.

JAMES L. McDOWELL recalled.

By Mr. CROZIER :

Question. Take that paper and look at it and state whose handwriting that is, (submitting the paper above-mentioned.)

Answer. It is mine.

Q. Is it a copy of a paper ?

A. It is an exact copy of a paper which was handed to me.

Q. In whose handwriting was the paper that was handed to you ?

A. Governor Carney's.

Q. Who handed it to you ?

A. Mr. Smith—L. T. Smith.

Q. Whose signature was to it ?

A. Thomas Carney's.

Q. In whose handwriting was that paper ?

A. Thomas Carney's.

By the CHAIRMAN, (Mr. Carpenter :) :

Q. That is Governor Carney, the witness here ?

A. Yes, sir.

By Mr. CLARKE :

Q. Did you compare it after making it ?

A. Yes, sir.

Q. With whom ?

A. Myself.

Q. How ?

A. Both papers lying before me.

Q. Where ?

A. In my own house.

Q. You first read the one and then the other ?

A. Yes, sir ; laying one on top of the other.

Q. You had no person to assist you in comparing ?

A. No, sir.

Mr. CROZIER. Now, I offer that paper in evidence.

The paper was read to the committee, as follows :

"I hereby agree that I will not, under any condition of circum-

stances, be a candidate for the U. S. S., in the year 1871, without the written consent of A. Caldwell, and in case I do, to forfeit my word of honor, hereby pledged. I further agree and bind myself to forfeit the sum of fifteen thousand dollars, and authorize the publication of this agreement.

"Topeka, January 13, 1871.

"THOS. CARNEY."

"I certify the above is an exact copy, word for word, of the original agreement written and signed in Thos. Carney's own handwriting, and by me carefully copied from the original. I further certify that I know his handwriting as well as I do my own.

"JAMES L. McDOWELL.

"LEAVENWORTH, *February* 10, 1871."

THOMAS CARNEY recalled.

By Mr. CROZIER:

Question. Now, Governor Carney, you said a while ago that Mr. Clarke complained that Mr. Caldwell had not kept his promise to Mr. Stevens?

Answer. Yes, sir; I stated that.

Q. Did Mr. Clarke explain what that was?

A. I do not remember that he did. Mr. Clarke has not only complained about that, but about many other matters; that he has not kept his promises with other people.

Q. I ask about Mr. Stevens now. Did he state what his complaint against Mr. Caldwell on account of Mr. Stevens was?

A. I do not remember that he did.

Q. What was his complaint against Mr. Caldwell on account of Mr. Stevens?

A. I know that only by general rumor.

Q. Do you know it from Mr. Clarke?

A. No, sir.

Q. Do you know from general rumor what his complaint against Mr. Caldwell on Stevens's account was? Is that what you say?

A. Yes; I say that what I know about it I know from general rumor.

Q. Now, governor, will you explain to the committee, if you can, if that agreement was in consideration that you should assist Mr. Caldwell in his election, why it was omitted from the paper wholly?

A. Why what?

Q. If the consideration of the \$15,000 to be paid by Mr. Len. Smith to you was that you should aid Mr. Caldwell in his election to the Senate, why was all mention of that fact omitted from the paper?

A. Because I held Mr. Smith's notes—agreements for it at the time. I held Mr. Smith's note, as I said before, for \$10,000, payable in thirty days, and I held another note for \$5,000, as I said before, payable when Mr. Caldwell was elected.

Q. And because you held these papers it was omitted from this agreement that you should aid in the election of Mr. Caldwell. Was that the reason it was omitted?

A. I do not exactly understand what you mean, judge.

By the CHAIRMAN, (Mr. Carpenter:)

Q. The question assumes that you had agreed to aid Mr. Caldwell.

A. Yes, sir.

Q. The question now put to you is why was not that agreement reduced to writing; if you agreed to support Mr. Caldwell for \$15,000, and you had a writing on that subject, why was not that part of the agreement embodied in the writing?

By Mr. TRUMBULL:

Q. As well as the part that you would not be a candidate. Why did you not put in the whole of it?

A. Well, I do not know. Of course it was written hastily, and without any thought or care especially; it was written for but one person's eye, and I cannot call to mind now any special reason why anything was left out or anything put in. It was simply roughly expressed—what we had agreed to do.

By Mr. HILL:

Q. Was the paper when you read it satisfactory to Mr. Smith?

A. Perfectly so; he made no objection to it.

Q. He did not ask you to include anything else in it?

A. No, sir.

By Mr. CROZIER:

Q. Governor, I will ask you if you had engaged rooms at Topeka contemplating a canvass for the Senate at any time before that election?

A. No, sir; I had not in contemplation being a candidate. I engaged rooms, but not in contemplation that I should be a candidate.

Q. How many rooms?

A. When I got there first I had engaged one room in the hotel. After I went there I was offered in this hall these two rooms and a bed-room. The hotel gave me a bed-room, changing my room, and I rented two rooms as a committee-room for Mr. Caldwell.

Q. Are the rooms you refer to now the rooms in the same building, and on the same floor with those occupied by Mr. Fenlon and Mr. Van Doren?

A. Yes, sir.

Q. Had you not engaged those rooms before the meeting of the legislature?

A. The front room I had.

Q. These rooms in that building?

A. No; I had engaged the front room of that building.

Q. Had you not engaged the next room back of it?

A. There was a little ante-room and a large room—perhaps as large as this.

Q. You could not go into the large room without going through the ante-room?

A. Yes, sir; there were doors to both.

Q. Where was the other room you engaged?

A. I had not engaged that. The hotel gave me that room in place of a room in the hotel.

Q. What were these two front rooms engaged for?

A. They were engaged as a sort of general assembly room, to meet together.

Q. For what purpose, if you were not going to be a candidate, did you want these rooms? You say you had one at the hotel as a lodging-room?

A. The rooms at the hotel were very small. It was a place where I could meet gentlemen and see more persons than in a little room in the hotel with a single bed and two chairs.

Q. How far were those rooms from the hotel?

A. About half a block, as I remember.

Q. In an entirely separate building?

A. Yes, sir.

Q. If you were not going to be a candidate, and had so made up your mind, can you explain why you wanted these rooms?

A. To be exact and truthful about it, I had not any hand in engaging those rooms. Mr. F. P. Baker engaged the rooms, and had them engaged and kept for me, and desired me to take them when I went there, and I did take them.

Q. By your authority?

A. Not by my authority; but he had engaged them for some purpose, and he said he wanted me to have them.

Q. He was a friend of yours?

A. Yes, sir. He had no authority to engage them; but he had them for me, and wanted me to take them.

Q. Why would your friend Baker engage rooms for you if you were not going to be a candidate for the Senate, more than any other man?

A. I do not know. Mr. Baker was himself a candidate for the position of public printer, and would be very glad to have some place himself to meet friends. Mr. Baker did use the rooms himself.

Q. Who paid for them?

A. I paid for them.

Q. When Mr. Anderson, as stated in your examination-in-chief, came in and said to Mr. Smith he wanted some money and must have it, who were present in that room?

A. I do not remember any persons but Mr. Smith, myself, and him. I do not remember any other persons; there might have been.

Q. What room was that?

A. It was in the front room of these committee rooms you have been referring to.

Q. You say yourself, Mr. Smith, and Mr. Anderson were all that were present?

A. I do not remember any other person; there might have been, judge, but I cannot be positive.

Q. You say they went into a corner of the room and had some conversation to the effect that Mr. Anderson wanted \$7,000.

A. No, I said this, that Mr. Anderson said he must have \$7,000 that night.

Q. Did you not say they went into a corner of the room?

A. No; that when Mr. Smith —

Q. If there is any dispute about that, the record will show. Did you or not say that he took Mr. Anderson into a corner of the room?

A. I say after Mr. Smith tore the check up then they went into a corner of the room.

Q. I asked you whether you said they went into a corner of the room?

A. They did.

By the CHAIRMAN, (Mr. Carpenter:)

Q. The question is whether you stated so?

A. I think I did.

By Mr. CROZIER:

Q. How did you happen to know what they were talking about?

A. I did not when in the corner of the room talking alone.

Q. Did you not say, "And Mr. Anderson went into the corner and Mr. Anderson said to him he must have some money?" Did you not say that the other day?

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A. No, I did not say that in that shape; not just as you state it, as I remember it.

Q. Did you not say it in that way?

A. If you will allow me I will state what I did say.

Q. The record shows what you did say.

A. I am willing to stand by the record.

Q. If there was nobody but yourself, and Mr. Smith, and Mr. Anderson in the room, and you heard what was said, what object was there in going to a corner of the room for conversation?

A. I would not be certain that there were not more persons present. I cannot call to mind any other person.

Q. Did Mr. Smith write his check, the first one that you describe, in that room for \$7,000?

A. What is the question?

Q. Did Mr. Smith write the \$7,000 check, that you say he tore up, in that room?

A. It is my impression that he did. He wrote something in the room and handed it to Mr. Anderson.

Q. Was there any other article of furniture in that room, except a table and chairs?

A. Yes, sir; there was a desk.

Q. Where?

A. On the north side of the room.

Q. Did you see the check he wrote?

A. No, sir, I did not.

Q. When he came back the second time and Mr. Smith asked you to indorse a check for him for \$7,000, where was that check written?

A. It was written in that room.

Q. On what sort of paper was it—on a blank check?

A. It is my recollection that it was written on a blank check—one of Scott & Company's bank checks.

Q. Did you look at the face of it?

A. I did, and saw the amount.

Q. Who presented it to you?

A. Mr. Smith.

Q. For your indorsement?

A. Yes, sir.

Q. I will ask you, governor, if that check is not in your own handwriting?

A. (After a pause.) No, sir.

Q. You say it is not?

A. I should say, no.

Q. What do you say about that; that it is not in your handwriting?

A. My recollection would be that it was not.

Q. Do you say it was not, or that you cannot recollect?

A. That would be my recollection.

Q. Are you sure that it was not?

The CHAIRMAN, (Mr. Carpenter.) He has stated all he can say about that.

By Mr. CROZIER:

Q. Where did Mr. Smith write that check, if he did write it?

A. In that room.

Q. At a desk?

A. At the desk. There was a table and a desk, very likely two desks—one I know.

Q. Can you state you three gentlemen were there and nobody else?

A. I will not state that there were only three.

Q. If there were only three why were you there?

A. Because it was our custom to go in there during the evening.

Q. Had you heard Mr. Smith say anything one, two, or three days preceding the day upon which you indorsed that check about a check for \$7,000?

A. No, sir.

Q. Did you not, two or three days before that, ask Mr. Smith for a check for \$7,000?

A. No, sir.

Q. I will ask whether that check was not signed by Mr. Smith in the Tefft House?

A. No, sir; it was not, if I know anything about it at all.

Q. Was there a revenue-stamp on it?

A. Well, I could not recollect that.

Q. Was it a printed check on Scott & Company?

A. My recollection is that it was.

Q. On Scott & Company?

A. That is my recollection.

Q. Did Mr. Smith take a blank check out of his pocket when he went to fill it up, if he did fill it up?

A. I cannot state how he got the blank-check; I do not remember.

Q. What time in the evening was it?

A. It was in the fore part of the evening, shortly after dark.

Q. Was it before 9 o'clock?

A. Yes, sir; I think it was.

Q. What day, in reference to the election, was that?

A. I cannot state that. It was a very short time—a few days; it might have been two or three days previous to the first vote; it was a very short time previous to the vote—the first vote taken in the legislature.

Q. Was it the evening of the day upon which the first ballot was taken?

A. I could not fix the day. I simply know it was a little before that time.

Q. Was it dated on the day on which it was drawn?

A. I do not remember the date, but I presume it was; I suppose so; I do not remember.

Q. During the evening preceding the ballot or vote in the two houses, from 9 o'clock until 12 o'clock, where were you?

A. On which day?

Q. On the evening preceding the ballot of both houses in joint convention.

A. From 9 to 12 o'clock?

Q. Yes; in the evening.

A. From 9 to 12 o'clock I was in my rooms—in those rooms during most of the time, I think.

Q. Where were you, after Tom Anderson came in with that bundle that you described the other day, during the remainder of the evening?

A. I remained in the rooms, according to my recollection, or front room, until quite late. Sometimes I would run into Mr. Fenlon's rooms, sometimes one place and then another in the hotel.

Q. Where did you go when you left the front room?

A. I cannot call to mind now.

Q. Did you go to your own room?

A. I could not say whether I went to my room, or Mr. Fenlon's room, or the hotel.

Q. Where, with reference to the rooms Mr. Fenlon occupied, was your room?

A. Immediately across the hall.

Q. Was your door kept locked?

A. Sometimes it was; sometimes it was not.

Q. Did you see Mr. Anderson leave that package in your room?

A. Yes, sir; I think I did.

Q. Where did he place it?

A. On the table.

Q. Did you go into the room with him?

A. My recollection is, judge, that I went to the door when he asked if there was anybody in the back room. I went and opened the door, and said, "No, there is nobody in the room." He was close behind in the hall, and he went in and laid this package, that he had in his coat-pocket, on the table.

Q. Did you leave together?

A. My recollection is that he came out and shut the door.

Q. Where did you go?

A. I cannot state.

Q. Did he go into the front room?

A. I cannot remember. The next thing I remember is that some time, some minutes, or maybe half an hour after, he came in and said, in a jocular way, somebody had taken that package.

By the CHAIRMAN, (Mr. Carpenter:)

Q. Was this jocular remark made in the same room where he had left the bundle?

A. No, sir; in the front room.

By Mr. CROZIER:

Q. The committee-room?

A. Yes, sir.

Q. Who was in the room when he made that remark?

A. I can only recollect now Mr. Smith and myself, from the fact of Mr. Smith making the remark, and he said, "I guess we had better not make any fuss about it." I cannot call it to mind exactly.

Q. Did not Mr. Anderson lock the door after he went out, leaving the package there?

A. I cannot state. I do not think he did, because Mr. Anderson did not carry the key.

Q. How long after he left that package did you go into that room?

A. Well, I could not tell; certainly not for some time.

Q. What do you mean by that?

A. I usually went to bed varying from 11 at night to 2 or 3 o'clock in the morning. I do not remember just what time I went there that evening.

Q. Cannot you give some idea of how long it was?

A. Indeed, I could not. I could not tell, to save my life, what time of night I went to bed that night, or what time I went into that room.

Q. Do you know of anybody going into that room between the time Mr. Anderson left it and the time you went to it?

A. No, sir; I do not. I do not remember. I could not call to mind now.

Q. Governor, you have said that gentlemen wrote to you requesting

you to aid them in procuring office through Mr. Caldwell after the senatorial election; you stated substantially that friends of yours who had voted for Mr. Caldwell wrote to you requesting you to do what you could through Mr. Caldwell to procure them office?

A. I said some of them did.

Q. Will you name one of them?

A. Well, Mr. Manning is one I can name.

Q. What office did he want?

A. He wanted, if I remember it aright, a position in the land-office.

Q. What land-office did he mention?

A. The land-office that was to be located in his district—that was in his district there.

Q. Was that all he wanted?

A. I do not remember anything else, judge, just now. I think I have the letter.

Q. That is all that you recollect that he wanted?

A. I cannot call to mind anything else that he specially wanted.

Q. Now, who else?

A. Judge, if I had the legislative list I could tell; there were so many.

Q. I want your recollection.

A. As I said before, there were one or two whose names I cannot call to mind; I cannot name them.

Q. Did Mr. Bayers write to you about an office?

A. Mr. Bayers did, sir.

Q. What Mr. Bayers?

A. Mr. Bayers, then a member of the legislature.

Q. Of what county?

A. From Ellsworth County.

Q. When did he write to you?

A. He wrote me in the spring of the year after the legislature had adjourned.

Q. Have you any idea how long after the legislature adjourned?

A. It may have been thirty or sixty or ten days.

Q. What did he want?

A. He said he wanted a position in the land-office.

Q. I think you said Manning wanted that.

A. No, I said Bayers.

Q. My recollection is that you said Manning wanted a position in the land-office.

A. Then I made a mistake in the names. I should have said Bayers, if I said Manning.

By Mr. HILL:

Q. You said Manning.

A. That is an error I desire to correct, and change that to Bayers.

By Mr. CROZIER:

Q. What land-office?

A. I do not know the district. It was the district of which the land-office was then at Junction City. He wanted to get it removed to his town. He had two objects in view. First, he wanted the land-office removed to his town. I remember that now. Second, he wanted to have a position in the land-office.

Q. What was Bayers's business?

A. Well, I do not know, judge, that I could state what his business was at this time.

Q. Had he ever been in Leavenworth?

A. Yes, sir; he had been.

Q. What was his business when in Leavenworth?

A. He was of the firm of Bayers & Shew.

Q. What was their business?

A. It occurs to me it was blacksmithing, was it not?

Q. Where was their establishment?

A. In the northern part of the city.

Q. Were they not blacksmiths who did a great deal of work for men freighting across the plains?

A. That is my recollection. I never knew them in Leavenworth, except by reputation.

Q. Do you know whether he was engaged in freighting in the spring of 1871?

A. I do not know of my own knowledge.

Q. What did you do with his letter?

A. I have it.

Q. Is that one of the letters you indorsed and sent to Mr. Caldwell?

A. I do not remember that I did indorse that one. I do not know, because I did not think the man was fitted for the office—the land-office. I do not think I pressed his case.

Q. Was he one of your special friends?

A. No, sir; I did not know the man at all.

Q. You did not know him?

A. I never met him until I met him just before going to Topeka.

Q. Then why did he come to you or write to you to get an indorsement from you? Can you state?

A. Nothing more than this: he came up there and I was participating in Mr. Caldwell's election.

Q. You think he wrote to you for that reason?

A. No, sir; let me get through—Mr. Caldwell had said that in anything that I might ask for any friends, their requests should be granted, and he took advantage of that offer to make his application through me, thinking it might be stronger than if made through himself.

Q. Was he present as one of your friends, and did he hear Mr. Caldwell make that statement to you?

A. I do not remember that he was; I did not go with my friends to Mr. Caldwell.

Q. You said that Mr. Caldwell told you the other day that he had paid Bayers \$2,500 for his vote.

A. He did, sir.

Q. Where did Mr. Caldwell tell you that?

A. He told me that in my office at Leavenworth, Kansas.

Q. If Mr. Caldwell had paid him \$2,500 for his vote, explain why it was that he wrote to you to procure him the land-office, or the appointment?

A. I do not know that I can explain why. There is the simple fact that he did it.

Q. You have said that Mr. Caldwell told you that he had paid Mr. Bayers \$2,500. Can you tell where it was that he told you that?

A. I say it was in my office.

Q. In Leavenworth?

A. Yes, sir.

Q. Who was present?

A. No one was present that I remember except Mr. Caldwell and myself; we were sitting in the office.

Q. Can you state when that was?

A. It was in the spring.

Q. What month?

A. I could not state the month; it was not a great while after the election at Topeka.

Q. What do you mean by "not a great while?"

A. It was before Mr. Caldwell went East, or immediately on his return; I will not be positive which, because I could not fix the dates.

Q. How did Mr. Caldwell happen to make that remark to you? What occasion was there for it?

A. The occasion of it was this: I had got a number of letters that I had sent to Mr. Caldwell, applications for one thing and another. My recollection is that Mr. Caldwell came with a package and brought them back to me; that is my recollection now; and again he itemized over and gave the reasons for this and that, and so on, you know, and came to it in that way.

Q. Did he have a memorandum-book in his hand during that conversation, or take one out of his pocket?

A. I do not remember whether he did it before or after, but he took out a memorandum-book once or twice.

Q. How many times?

A. On one or two occasions.

Q. On different days?

A. I think so; that is my recollection.

Q. Did you ever see the face of any memorandum-book he had?

A. No, sir; nothing more than he had a book; as if I should take out a book here and have it so that Mr. Carpenter, sitting here, could see I had a book.

Q. Was Mr. Caldwell a good business man?

A. He was so regarded, and I thought that was evidence that he was pretty good on business.

Q. During the time of that conversation, and the exhibition of that memorandum, was it your impression that written in a book was the amount paid to persons named there?

A. It was my impression that he had the names of every member down there, and the amount paid to them; that was my impression.

Q. Down in the memorandum-book?

A. Yes, sir; whether it was plain or not, it was my impression that it was so indicated in that book; that there was the name of every man and the amount, so that he would know what it was—that he had some indication there that would tell him what it was.

Q. You have said that you did not want to know anything about this and did not know anything of money paid directly by Mr. Caldwell, and had so advised Mr. Caldwell, or so said to him. Now, can you tell us why Mr. Caldwell, under such circumstances, made this statement to you?

A. I cannot, other than I stated, that he made out in answer to the applications of parties, saying that he did not owe the party anything.

Q. Did you not say in your examination Saturday that you never saw a memorandum in the hands of Mr. Caldwell in relation to the buying of votes, except once?

A. I will not state now that I saw it more than once.

Q. What did you say the other day?

A. I do not know; I may have seen it.

Q. I ask you what you said on Saturday?

A. I do not know; I said what my impressions were.

Q. Did you say on Saturday that you saw it only once?

A. Well, I do not know what I said; I call to mind once.

Q. You do not know what you said? That is all I ask.

A. I call to mind one distinct occasion.

The CHAIRMAN, (Mr. Carpenter.) The question only calls for what you said on Saturday.

By Mr. CROZIER:

Q. You say you do not know what you did say?

A. I say I do not remember. I made the statement as my recollection then served me.

Q. Did Mr. Caldwell, in his conversation with you concerning Bayers, tell you how he had paid Bayers?

A. He did not.

Q. Was that statement before or after the 1st of May, 1871?

A. As I have stated before, I cannot tell whether it was early in the spring, or when it was; certainly some time before the summer.

Q. Governor, did you not say on Saturday, when examined, that Mr. Caldwell told you he had paid Bayers \$2,500 in money?

A. He said that; he said he had paid him \$2,500. What else would it be but money?

Q. Did you not say on Saturday that you never saw that memorandum-book except upon one occasion, and that you could not recollect the name of the man Mr. Caldwell mentioned then as having paid?

A. My recollection, judge, is——

Q. I am not asking you about the fact, but about your testimony on Saturday.

A. My recollection of what I have stated is this——

Q. You can say if it comports with your recollection whether you did or did not.

A. That I could not remember the name of the member that Mr. Caldwell spoke of when he said he did not owe him anything; that he had paid him for his vote. I could not call to mind his name. I could call to mind the name of Mr. Bayers as one name he stated to me that he had paid.

Q. Did you not say that on one occasion, when that memorandum-book was produced, you did not recollect the name of the man who was under discussion at that time? Did you not say that on Saturday?

A. I said on Saturday that there was one name I could not remember.

Q. Did you not say what I say you said?

A. State it again.

Q. Did you not say that upon the occasion when that memorandum-book was produced you could not remember the name of the man you were talking about?

A. No, I do not think I did; I do not remember it that way, judge.

Q. I will ask if, at Topeka, during the progress of the canvass, and towards its close, you did not say to Frank Drenning and James L. McDowell that you thought Mr. Caldwell could not be elected, judging from the vote that had been cast that day in the separate houses, and that you proposed to be a candidate yourself?

A. No, sir.

Q. You did not say any such thing?

A. I did not state that. I will tell you what I did say.

Q. I am not asking you that now. You can state it if somebody else asks you. You say that you had a conversation with Mr. Smith and

Mr. Caldwell at Topeka, soon after the canvass opened, in which something was said about \$40,000. Will you tell me where that conversation took place?

A. That conversation took place in one of these rooms.

Q. Which room?

A. The rooms used for the committee in that hall.

Q. You mean one of those called your rooms?

A. Yes, sir.

Q. What time in the day?

A. It was in the evening.

Q. About what time in the evening?

A. The fore part of the evening.

Q. Can you tell me what day that was?

A. No, I could not tell what day, judge; it was the day that that article or agreement that was copied was made.

Q. You say it was on the evening of that day?

A. Yes, sir; that was done in the evening.

Q. I am now asking you about the conversation between you and Mr. Smith.

A. It was made that day.

Q. Was that on the same day and at the same time that this agreement was made?

A. My recollection is when that agreement, was given to Mr. Smith and his notes to me, he made the statement, and then we went to see Mr. Caldwell.

Q. That same evening?

A. That is my recollection.

Q. Where did you go to see him?

A. To his room.

Q. In the Tefft House?

A. Yes, sir.

Q. Not in your room?

A. No, sir.

Q. You said a moment ago it was in your room, the conversation with Mr. Smith I am asking about.

A. I beg pardon; that took place in Mr. Caldwell's rooms at the Tefft House.

Q. When was it?

A. On the day that instrument was written.

Q. Do you know whether Mr. Caldwell was in Topeka on that day?

A. He certainly must have been there or he could not have seen him.

Q. What do you say about his having been there?

(The witness examines the agreement.)

Q. What do you say now, governor?

A. O, he was there, sir.

Q. You say he was there?

A. Certainly, he was.

Q. I will ask you if that interview you refer to did not take place on the Tuesday preceding the day of the first vote?

A. We had two or three interviews; I had two interviews.

Q. I refer to the one in which you said Mr. Smith said to Mr. Caldwell that he had involved him \$40,000.

A. That was the first interview.

Q. When did that take place?

A. My recollection is that we went from my room to Mr. Caldwell's room.

Q. That was the 13th?

A. That is my recollection.

Q. Was it not on the Tuesday preceding the day when the first ballot was taken?

A. What day of the month was that? If you could tell me that, I could tell.

Q. That was about the 17th.

A. I do not remember the date.

Q. It was the 17th.

A. My recollection is that I saw him before that, if that was the 17th.

Q. The legislature met on the 10th, and the next Tuesday would be the 17th; that has been proved here.

A. I do not remember what day it was

Q. Was Mr. Spriggs with you at that time?

A. Which time?

Q. The time you alluded to when this \$40,000 was spoken of. Was he with you at that interview with Mr. Smith and Mr. Caldwell?

A. No, sir.

Q. Was he with you at any interview?

A. I do not remember that he was. I do not profess, judge, to be exact in the dates. I could not give them. It is not possible to give the dates, or the day of the week, when certain things took place, only it took place in such a month and such a time, but I could not give the day of the month. It is impossible to tell the day of each conversation any more than to tell what I had for dinner on those days.

Q. You have described what you say was the committee of six; were you a member of that committee?

A. I was.

Q. Who appointed it?

A. We were invited to participate in that by Mr. Smith; that is my recollection.

Q. Was anybody invited besides the six you have named except Mr. Smith?

A. I could not state. We were about all that met there regularly.

Q. Did you ever see me there?

A. I have seen you in the rooms frequently; I do not remember meeting you in the committee; you might have been there, possibly. You were about there a great deal and made your headquarters there, I know; you were not as regular an attendant there as some of the balance of us.

Q. Who appointed the persons, that you call that committee, to do the different kinds of work; who designated to see the different parties mentioned there?

A. Well, it was the committee generally.

Q. What was Tom Anderson's business, so far as the committee was concerned; what was his special business?

A. The understanding was that his business was to look around and see what members of the legislature could be induced to vote for Mr. Caldwell.

Q. For any particular consideration?

A. Yes, sir; for consideration.

Q. Who designated Mr. Anderson for that business?

A. I think Mr. Smith did.

Q. Was the committee consulted about it?

A. I do not think they were, specially.

Q. You do not think they were?

A. I do not think that the committee directed Mr. Anderson specially what to do.

Q. How did you know, then, that was Mr. Anderson's special business?

A. Simply by the talk and report, and what was said in the freedom of talk in the committee and among gentlemen that met there.

Q. Did you know that was understood to be Mr. Anderson's particular business as a member of the committee?

A. That was the understanding, judge.

Q. If you were anxious to avoid any knowledge of the use of money, how did it happen that you were with the committee that were designating persons for that special business?

A. Simply from the fact that the service could not be rendered in any other way; that seemed to be the basis of the campaign.

Q. Then it was with your assent, was it?

A. I was there, certainly, and heard a great deal of talk about it.

Q. Was it with your assent?

A. I could not say that I objected.

Q. Can you tell whether it was done with your assent?

A. I did not object to it.

Q. Did you assent?

A. I did not make any objection.

Q. Did you not say on Saturday that none of the acts of that committee were concealed from you?

A. I do not know that I did.

Q. Did you or not say it?

A. The acts of the committee seemed to be open pretty generally there.

Q. Do you mean by that that the acts of the committee and the members of it were made public to everybody that came into that room?

A. No, I do not mean that.

Q. What do you mean?

A. I mean that there was a freedom of discussion and conversation indulged in by the committee in reference to the election and in reference to the way it should be conducted, and so on.

Q. And the means used?

A. Yes, sir; that was a good deal discussed.

Q. And you did not object to any means being used?

A. I do not remember that I did.

Q. You said in your examination-in-chief that Mr. Manning spoke to you about borrowing some money. What Mr. Manning is that?

A. I think his name is E. C. Manning.

Q. Where did he reside?

A. It was in the southern part of Kansas, I think.

Q. What was his business?

A. He had been a printer. I do not know what his business was then.

Q. Was he conducting a newspaper at that time?

A. I do not know.

Q. Had you been acquainted with him previous to that time?

A. Yes, sir.

Q. Was he one of your special friends? I mean political friends.

A. No, sir; I understood he came up there as Mr. Clarke's friend. He was so elected, at any rate.

Q. Did he say to you that he wanted to borrow one or two thousand dollars for one or two years?

A. Yes, sir; \$1,800, I think, was the sum.

Q. Did you go with him to Mr. Caldwell?

A. No, sir; I did not.

Q. Did you go to Mr. Caldwell?

A. I did.

Q. Did you say to Mr. Caldwell that Mr. Manning would vote for him if Mr. Caldwell would loan him the \$1,800 or \$2,000?

A. I did.

Q. Did you go back then and report what Mr. Caldwell said to Mr. Manning?

A. Yes, sir; I did.

Q. Was it on account of that promise that you carried from Mr. Caldwell to Mr. Manning that Mr. Manning voted for Mr. Caldwell?

A. I could not state that.

Q. Did he vote for him?

A. My recollection is that he did.

Q. Did you afterward ask Mr. Caldwell why he had not complied with that agreement?

A. Yes, sir; I did.

Q. Did you regard that as a money transaction for a vote?

A. No, I did not at that time. I regarded it——

Q. That will do.

A. Not in the sense in which others had been used.

By the CHAIRMAN:

Q. If Judge Crozier will allow me I will ask a question right here, as it will save time. You have been inquired of if you asked Mr. Caldwell why he had not complied with the agreement made with Mr. Manning, and you say you did?

A. Yes, sir.

Q. Now, what was his answer?

A. He said he had not the money.

By Mr. HILL:

Q. While I think of it, I will ask a single question that is well enough right here. Did this committee ever at any time while you were with it, governor, have charge of any funds as a committee to use in this election?

A. No, sir.

Q. It had no treasurer that you know of?

A. No, sir; it had no treasurer.

Q. Did it at any time as a committee pass upon the amount that should be paid to any man for his vote?

A. No, sir.

Q. Was there ever such a question as that discussed by it as a committee?

A. No, sir.

By Mr. CROZIER:

Q. Was it your special business as a member of that committee to see your friends in behalf of Mr. Caldwell?

A. Yes, sir; it was my business to see as many of them as I could.

Q. I mean those who were friendly to your candidacy.

A. Yes, sir; friendly to me.

Q. Had you seen any of them?

A. Yes, sir.

Q. Did any of them want any money for their votes?

A. Possibly. Well, I think very likely they did, judge.

Q. You think likely they did. Did you communicate that to the committee?

A. I stated to the——

Q. Did you do that?

A. I think I did to some members of it—to Mr. Anderson, perhaps, and perhaps to Mr. Smith; I would not be positive.

Q. You said that Mr. Anderson asked you concerning the note that he had of Mr. Caldwell. Did you see that note?

A. O, no; I did not say I saw it. I said Mr. Anderson wrote me a letter.

Q. Did you have any conversation at any time with Mr. Anderson about it?

A. No, sir.

Q. Was it a note of Mr. Caldwell?

A. Mr. Anderson wrote that it was his note, indorsed by Mr. Caldwell.

Q. When was that?

A. When was what?

Q. When did he write you?

A. It was last spring some time; some time during that time.

Q. Last spring? Do you mean the spring of 1872?

A. That is my recollection.

Q. When did you say that note would be due?

A. Due the following October.

Q. When was it dated?

A. I do not remember now.

Q. How long was the time?

A. Eighteen months.

Q. And you think it was due the following October?

A. Yes, sir.

Q. He said that in his letter—that it was October, 1872?

A. Yes, sir.

Q. That would bring the date of it about the 1st of April, 1871, would it not?

A. I suppose it would.

Q. Did he explain to you how he had happened to have his own note dated in April, 1871, indorsed by Mr. Caldwell?

A. No, sir; I never talked with him on that subject. All I know of it is what was in that letter.

Q. It is an odd sort of a note to have so long a time.

A. That is what I thought.

Q. His own note, indorsed by somebody else, in his pocket. Did you do all you could to aid the election of Mr. Caldwell?

A. I did, sir.

Q. Did you return to Leavenworth with the party after the election?

A. I did, sir.

Q. Was there a jollification there?

A. Yes, sir.

Q. Did you take any part in it?

A. I did.

Q. What part?

A. I took a prominent part, with others.

Q. Who presided at the banquet?

A. I did.

Q. Did you make a speech?

A. Yes, sir; a short one.

Q. Was it published?

A. I do not remember now; I think it was, however; I think likely it was.

Q. Governor, what was the occasion of that entertainment down there?

A. The citizens, I understood, of Leavenworth, gave Mr. Caldwell an entertainment.

Q. Gave it to Mr. Caldwell or the members of the legislature?

A. And to it they invited the members of the legislature.

Q. Was there a large crowd there?

A. There was.

Q. Who gave the entertainment?

A. The citizens of Leavenworth, as I understood it.

Q. Was it very generally attended?

A. Well, I guess it was—tolerably so.

Q. Did not almost everybody in the town participate in it?

A. I cannot tell that; a great many participated in it.

Q. Were there not a great many strangers there?

A. Yes, sir; a great many were invited from all over the country.

Q. You invited them, did you not? You sent the invitations?

A. No, I did not; I sent some probably.

Q. Were you not chairman of the committee on invitations?

A. I was consulted.

Q. Were you not the chairman of that committee?

A. I do not remember that I was chairman of the committee on invitations. I will not say I was not. I remember I took an active part in the matter.

Q. Were not almost the whole of both branches of the legislature there?

A. They were all invited. I presume most of them were there.

Q. Were they not almost all of them there?

A. I think they were; my recollection is that they were.

Q. Were the officers of the supreme court there?

A. They were invited. I cannot say whether they were all there or not.

Q. (Submitting a newspaper.) Look at that paper and say whether it is a copy of your speech.

The WITNESS. It reads something like the one I made. It sounds very much like one I made in welcoming the members of the legislature and the distinguished people there.

Mr. CALDWELL. I desire to have that read to the committee.

The CHAIRMAN. What is the purpose?

Mr. CROZIER. Governor Carney said substantially in his examination-in-chief that Mr. Caldwell was picked up, unknown in the State; that nobody wanted him to be run for the Senate; that he had no status to run on. I want to show what Governor Carney said to the people of that State at that time about that.

The WITNESS. That speech was made to make the people as happy as possible.

The CHAIRMAN. Let the speech be read.

The speech was read as follows:

"Gentlemen of the legislature, ladies and gentlemen:

"The pleasant duty has been imposed upon me by the citizens of Leavenworth of welcoming you to the hospitalities of this city and to this festive hall. In the name, then, and in behalf of the citizens of Leavenworth, without regard to party, I give you a cordial welcome.

"You have been invited here to-night that we may express to you personally our joy, our gratitude, and our heartfelt acknowledgments for the high honor you have conferred upon one of our fellow-citizens. We feel that we should make to you, and, through you, to the people of this State, our public acknowledgments for the distinguished favor conferred. We feel also that we are called upon to assure you that we shall not selfishly use your generous gift. We realize that the Senator-elect belongs to Kansas, and that he owes equal duties to all the people of the State without regard to locality, and we mean to so counsel and assist him in every way we can while he holds the exalted position of representing Kansas in the Senate of the United States. We desire to show the people of Kansas that Leavenworth is not local, is not selfish, and will not use your generous confidence to the detriment of any portion of this young, growing, vigorous commonwealth.

"I feel that I can say this to you, fully assured you will believe that I mean what I say.

"I came to Kansas in 1857, and found Leavenworth then, as now, depending upon the State for its existence, its support, and its importance as the metropolis of Kansas. Is her position different now? Is not her future wholly dependent upon the State? If so, how can she neglect to look to, and help in every way she can to promote, the interests of the power which can add to or take from her importance? Is not Leavenworth interested, deeply interested, in all parts of Kansas? Ask her merchants, her bankers, her manufacturers, and her people.

"As a citizen of Leavenworth, I assure you, I know her people desire the prosperity of Kansas above and beyond the individual interest of any man. How, then, could I, as one of her citizens, knowing this, and sharing in this feeling as deeply and as earnestly as any, obtrude my individual interest in the way of her wishes, her hopes, and her expectations of uniting her future closely and intimately with that of the State?

"To those of you who differ, and have differed with me, I can only say that I wish you had accompanied the Senator-elect to this city on his return from Topeka, and witnessed for yourselves the general, joyous, whole-souled welcome he received on his arrival here, and enjoyed the warm congratulations I experienced for the support I gave him. You would then have realized that the hopes and aims of twenty-five thousand people were more to be regarded than your individual wishes or my personal ambition.

"Leavenworth proposes to have but one 'ring' and one 'pet' to enjoy the victory we celebrate, and that 'ring' and that 'pet' is Kansas, politically, morally, socially, and materially."

By Mr. CROZIER:

Q. You said in regard to that check for \$7,000—and what was done with the money—that it was placed in your room, which was immediately opposite the room occupied by the Leavenworth delegation?

A. Yes, sir; I did.

Q. Who were the prominent occupants of that room immediately across the hall which you said was occupied by the Leavenworth delegation?

A. Mr. Fenlon and Mr. Van Doren, I believe, were the prominent occupants.

Q. Did you at any time communicate to Mr. Van Doren or Mr. Fenlon that you had signed the paper that has been offered in evidence here?

A. No, sir.

Q. You never did?

A
O
W

A
O
W

A. Not to my recollection.

Q. Did either of these gentlemen know anything about that package that was left in that room?

A. No, sir; I think not; I never knew that they did.

Q. Did either of those gentlemen, Mr. Fenlon or Mr. Van Doren, know anything about the conversation that you had with Mr. Smith and Mr. Caldwell, and Mr. George Smith and others, in relation to the use of money or the manner in which you were going to try to elect a Senator?

A. Not to my knowledge. I cannot call it to mind.

Q. Did they ever meet that committee in those rooms, either of them?

A. I do not remember that they ever met there as a committee?

Q. Were they ever present, or either of them, when anything was said about the business of the election?

A. I cannot say whether they were or not.

Q. I mean in what you call the committee-room.

A. I do not think Mr. Fenlon or Mr. Van Doren were there when we were calling over the roll and checking off.

Q. But doing any sort of business?

A. I would not say that, but doing that sort of business—checking off.

Q. Did they know anything at all about the means you said were used there?

A. I cannot state whether they did or not.

Q. Were they not generally recognized as being in the secrets of that committee to any extent?

A. I do not know that they ever tried to get into the secrets of the committee.

Q. Were they recognized as gentlemen who knew anything about it?

A. No, I do not think they were.

Q. What were their politics?

A. Democrats.

Q. Both of them?

A. Both democrats; so regarded.

Q. Since the senatorial election, and down to the present time, what had been the social relations between yourself and Mr. Caldwell; are you friendly or otherwise?

A. We never had any words, sir.

Q. Are you cordial friends when you meet?

A. Not especially, sir.

Q. Are you on speaking terms?

A. O, yes.

Q. Do you know Jeremiah Clarke?

A. O, yes; very well.

Q. Where does he live?

A. In Leavenworth.

Q. Did you have a conversation with Jeremiah Clarke, or in his presence, about a month ago, in Leavenworth?

A. A month ago?

Q. About a month or six weeks ago.

A. No; I did not. I have not been in Leavenworth for over two months.

Q. Do you know where Jake Steinbaugh's saloon is?

A. No, sir; I do not.

Q. Do you know who keeps the saloon on Fifth street just below the cross street going down from that house to Fifth street on the west side of Fifth street?

A. There is a little place—lager beer is sold there—kept by a man they call Jake. I do not know what his other name is.

Q. That is the man I mean.

A. I did not know his name was Steinbaugh.

Q. Did you have a conversation within six weeks in that place in the presence of Mr. Jeremiah Clarke, and in the presence of Mr. Sherwood?

A. No, sir.

Q. Did you within three months?

A. Perhaps within three months I might have been in there, when I drank a glass of lager beer.

Q. Do you recollect Mr. Jeremiah Clarke and Mr. Sherwood being present?

A. I recollect Mr. Clarke. I do not remember Mr. Sherwood. There were one or two other gentlemen.

Q. I mean Jerry Clarke, as we call him. Do you recollect saying substantially this to Jerry Clarke at that time, in the presence of Mr. Sherwood or the gentlemen you have alluded to, with very considerable vehemence, that you were going to oust Mr. Caldwell from his seat in the Senate?

A. I do not remember of ever talking with him upon the subject.

Q. What is your impression now about having used language like that?

A. My impression is that I did not say any such thing; I do not remember of ever talking with Mr. Clarke upon the subject.

Q. Do you say you did not?

A. I do not remember of doing so at all. I knew Mr. Clarke was a special friend of Mr. Caldwell, and I am not in the habit of trying to talk unpleasantly to people in that way. I have no recollection at all of talking to him on that subject.

Q. Soon after the election of Mr. Caldwell, in the presence of friends in Leavenworth, did you claim to have been instrumental in the election of Mr. Caldwell?

A. Well, I suppose that I had to acknowledge that I had a part in it and assisted in the matter.

Q. Were you in Washington soon after that election?

A. I came here some time in the spring.

Q. In the spring?

A. Yes, sir; I do not remember whether in April or May.

Q. Did you have a conversation, during that visit here, with Mr. Senator Pomeroy, in which you said you were pleased, or words to that effect, with the election of Mr. Caldwell; that you had secured it; and that he would make a good representative for the State of Kansas?

A. I have no recollection of talking with Senator Pomeroy at all during that visit. I know I did not go to his house, and I have no recollection of talking to him at all upon the subject.

By Mr. CLARKE:

Q. Governor Carney, has there ever been any effort made since this investigation commenced, by Mr. Caldwell or any of his immediate friends, to induce you to conceal the facts you have stated before this committee; if so, what was it?

The CHAIRMAN, (Mr. Carpenter.) The question should be confined to Mr. Caldwell or some person acting with his authority.

A. I have never spoken to Mr. Caldwell upon the subject.

By Mr. CLARKE:

Q. Do you know James F. Legate?

A. Yes; I know him.

Q. Has any effort been made by Mr. Legate to that effect?

The CHAIRMAN, (Mr. Carpenter.) That is improper, unless you connect Mr. Legate in some way with Mr. Caldwell, and show that he was authorized.

By Mr. CLARKE:

Q. Was Mr. Legate a member of the legislature?

A. When Mr. Caldwell was elected?

Q. Yes.

A. He was.

Q. Was he an active friend of Mr. Caldwell?

A. He was so regarded.

Q. Was he actively engaged at Topeka in behalf of Mr. Caldwell's election?

A. Yes, sir; I think he was.

Q. Was he regarded as one of his particular friends?

A. He was at that time.

Q. Now, I will ask if Mr. Legate——

Mr. CROZIER. I object to that question.

The CHAIRMAN, (Mr. Carpenter.) It is clearly improper, unless you show Mr. Caldwell's connection with Mr. Legate. Otherwise, Mr. Caldwell's character might be ruined by any villain on Pennsylvania avenue to-morrow. If you can show that Mr. Caldwell sent Mr. Legate, it will then be competent to show Mr. Legate's declarations.

By Mr. CLARKE:

Q. Did Mr. Legate come to you, representing that he came from Mr. Caldwell, for the purpose of using any influence?

Mr. CROZIER. I object to that.

The CHAIRMAN, (Mr. Carpenter.) That is equally improper. If Legate is here you can call him to establish any authority he had to do any such thing; and then, if that is established, this question will be proper.

Mr. CLARKE. Mr. Legate has been summoned by Mr. Caldwell, but has not yet testified.

The CHAIRMAN, (Mr. Carpenter.) You can call him and then recall this witness afterward.

The WITNESS. In order to settle this, I will state that Mr. Legate never came to me representing himself to be acting in that capacity, as coming from Mr. Caldwell.

By Mr. CLARKE:

Q. Do you recollect an interview with me at the Tefft House, after the first vote, and my proposing to aid you with whatever political influence I had in the joint convention?

A. Yes, sir; I do.

Q. What took place?

A. I remember that after the first vote was taken, that is, the vote in the separate houses, you sent for me and I went to your room, and you then proposed to me that if I would become a candidate you would give me all the support you could. You said that you would assure me enough votes to secure my election beyond any question in the world. I told you——

Mr. CROZIER. I object. Is this conversation between Mr. Carney and Mr. Clarke competent to show that Mr. Caldwell was improperly elected? Mr. Caldwell was not shown to have been present or to have advised it.

Mr. CLARKE. The point has been attempted to be made at an earlier stage of the examination in reference to my consenting to my political friends supporting Mr. Caldwell. I wish now to show that I voluntarily proposed to Mr. Carney, after the first vote was taken, that if he would become a candidate I would give him my support.

The CHAIRMAN, (Mr. Carpenter.) The committee are not investigating your conduct. Do you claim that this implicates Mr. Caldwell?

Mr. CLARKE. I only ask this question because questions upon this subject were asked upon the other side. I do not press it.

The WITNESS. I would like to ask the privilege of the chairman to make one little explanation of an answer I was compelled to make to the judge in reference to a conversation I had with Mr. McDowell and Mr. Drenning, and that he would not allow me to state.

The CHAIRMAN, (Mr. Carpenter.) It is entirely proper for you to do so.

The WITNESS. After this interview with Mr. Clarke, when he offered me his vote, I went and told Mr. McDowell and Mr. Drenning what proposition Mr. Clarke had made, and I asked them what they thought about it. I just put the question right to them. They turned and asked me what I thought about it. I said I could not accept it. I could not afford to do a dishonorable thing to be Senator; that I should have to decline it emphatically, to decline the support Mr. Clarke had offered to give me, and that we had but one duty, and that was to go ahead and elect Mr. Caldwell. That I said to Mr. Drenning, and Mr. McDowell, and Governor Osborn.

By Mr. CLARKE:

Q. You said you had a conversation with Mr. Caldwell at his house in Leavenworth, in which he told you the Kansas Pacific Railroad had got to give him money before they could get any favorable legislation in Congress. Who was present at that interview?

A. Mr. Caldwell and I were the only persons. We were sitting in his library.

The CHAIRMAN, (Mr. Carpenter.) Who said this? Mr. Caldwell stated it to whom, and when?

Mr. CLARKE. He said it to Governor Carney.

The WITNESS. That was in the fall of 1871.

By Mr. CLARKE:

Q. You stated in your evidence on Saturday that you had a conversation with Mr. Caldwell, at his house in Leavenworth, in which he told you that the Kansas Pacific Railroad had got to give him money before they could get any favorable legislation in Congress. Who was present at that interview?

A. There was no one present but myself and Mr. Caldwell.

Q. Was any sum named; and if so, what sum of money was named?

A. The sum that Mr. Caldwell stated he was going to get for me was \$5,000.

By the CHAIRMAN, (Mr. Carpenter:)

Q. To get for you from the Pacific Railroad?

A. He said that as soon as he got on to Washington he would see them and they would be very glad to give him some money—the money they had promised him to aid him in his election; and that they would be very glad to do it; and that he would take good care that they got no legislation until they did pay him what they promised him.

By Mr. CLARKE:

Q. Did he state how much they owed him?

A. I do not remember that he did, but he or somebody did; the impression I got on my mind was \$30,000, but I will not say that he named the sum.

By Mr. ANTHONY:

Q. How much do you say it was?

A. Thirty thousand dollars. It either came from John D. Perry or him.

By the CHAIRMAN, (Mr. Carpenter:)

Q. Who was he?

A. The president of the Kansas Pacific Railroad. He told me he demanded that sum, and I either got the impression—

The CHAIRMAN, (Mr. Carpenter.) That is not proper.

Mr. CROZIER. That should not be left on the record.

The CHAIRMAN, (Mr. Carpenter.) If I were holding court I would strike out about half of this. The witness should confine himself to what he knows, of his own knowledge, and has heard from Mr. Caldwell.

By Mr. CLARKE:

Q. You stated on Saturday that Mr. Len. T. Smith told you at Topeka that he had received \$10,000 in currency from the Kansas Pacific Railroad Company. At what time did Mr. Smith give you that information?

A. It was a very short time before the vote was taken in the legislature; a very short time.

Q. About how long?

A. I should say, from the best of my recollection, that it was two or three days. It might have been one, or two, or three; it was a very few days, at any rate.

Q. Who was present when Mr. Caldwell exhibited that memorandum-book to you and said he had paid the money for a vote of a member of the legislature for whom you had asked a favor?

A. I do not remember that any one was present but myself and him.

Q. What were your expenses at Topeka at that election?

Mr. CROZIER. How can that be competent?

The CHAIRMAN, (Mr. Carpenter.) I think that is proper. The charge is that the \$7,000 paid to him for expenses was a bogus representation. I think they can ask him what his expenses were and whether he was paid them by anybody.

A. My hotel bill was, as I remember, \$237, and the rent for rooms, I remember, was \$100.

By the CHAIRMAN, (Mr. Carpenter:)

Q. In addition?

A. Yes, sir; these committee-rooms, and I think I paid \$75 for furnishing the rooms with chairs. I contributed, originally, \$250 to the banquet at Leavenworth, and afterward \$100 to pay up arrears. That is all the sums that I can now call to mind of my expenses.

By Mr. CLARKE:

Q. Have you any information that Mr. Len. T. Smith paid members of the legislature money for their votes at the time of that banquet?

Mr. CROZIER. From whom is the information?

By the CHAIRMAN, (Mr. Carpenter:) Ask him, Have you any knowledge?

By Mr. CLARKE:

Q. Have you any knowledge or information that Mr. Len. T. Smith paid to members of the legislature, at the time of the banquet in Leavenworth, money for their votes for Mr. Caldwell?

Mr. CROZIER. I object, because he includes the word information.

The CHAIRMAN, (Mr. Carpenter.) The question is improper. He can ask, do you know whether, &c., and that includes only his own personal knowledge of transactions or Mr. Caldwell's declarations. He will state nothing else.

A. I know Mr. Smith told me he had provided some money for some members. A good many came in there and he had to provide some money; that they expected money.

The CHAIRMAN, (Mr. Carpenter.) That is exactly what I told you was improper to give as evidence. The question was, Do you know? And that would exclude what anybody told you.

The WITNESS. I only know what Mr. Smith told me.

The CHAIRMAN (Mr. Carpenter) put the question to the committee whether the foregoing answer should stand upon the record, and it was directed that the answer stand, together with the remarks of the chairman to the witness at the time.

By Mr. CLARKE:

Q. Did Mr. Smith tell you he had paid money to members of the legislature there?

Mr. CROZIER. That is objected to.

The CHAIRMAN, (Mr. Carpenter.) And the question is ruled out.

Mr. CLARKE. I have no further questions to ask.

The CHAIRMAN, (Mr. Carpenter.) We do not wish to exclude any question that is proper, but Mr. Caldwell cannot be convicted here by the declarations of any one whose agency is not established. Mr. Smith is in the room, and you can call him and ask him directly; and if you can establish any such relation you can then ask this question of Mr. Carney.

Mr. HILL. The chairman of the committee, (Mr. Morton,) when present, has uniformly put such questions as, Do you know of your own knowledge, or from what you have heard Mr. Caldwell or his confidential friends say? I think the latitude allowed has been wide, but it has been done, and I thought there was nothing wrong in it, where the relations were established, as they have been here. I do not care to press this question myself.

Mr. LOGAN. The question is objectionable as recross-examination.

Mr. ANTHONY. This may be legally improper, but it is in the line of questions that have been allowed heretofore.

Mr. CLARKE. This is also a parliamentary proceeding.

Mr. CROZIER. It is a transaction subsequent to the election. It is not pretended by any one that Mr. Smith was Mr. Caldwell's agent after the election.

The CHAIRMAN, (Mr. Carpenter.) Put the question.

By Mr. CLARKE:

Q. Did Len. T. Smith tell you he paid money to any member or members of the legislature at the banquet, at Leavenworth, immediately following the election of Mr. Caldwell for the office of Senator?

The WITNESS. Shall I answer the question?

The CHAIRMAN, (Mr. Carpenter.) Certainly.

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A. Mr. Smith said to me that he had to raise considerable money for members coming down there to the banquet, to pay certain arrears that he owed and had promised at Topeka.

By the CHAIRMAN, (Mr. Carpenter:)

Q. Is that all he said, and exactly what he said?

A. He said he had to do so, and currency was very scarce, and he did not know hardly how to get it or what to do.

Q. Did he say what he owed them for?

A. Well, I do not know that he did in those words. I do not remember that he did in those words.

Q. Did he in any other words? Tell what he said as near as you can. I do not ask you what you thought about it.

A. He was afraid he would have to disappoint certain men; that it was impossible to get currency; that there were men coming down there to that banquet who had been promised money and expected to get it. He was afraid he would have to disappoint them; that it was impossible to get the currency; that it could not be got in town; that it was scarce.

Q. Did he mention any person?

A. I do not remember that he did.

Q. Did he say they were members of the legislature?

A. Yes, sir.

By Mr. CLARKE:

Q. Did you assist him to get the currency?

A. No, sir; I do not remember that I did.

By Mr. CROZIER:

Q. When was that conversation?

A. That was that day or morning of the banquet, occurring in the evening. It was either in the morning of the day of the banquet or the day before that.

Q. How long was that after the election?

A. I do not remember, judge. It seems to me it was about a week. It may have been ten days; I do not remember exactly.

Q. Was it not two weeks?

A. I do not remember. It may have been ten days or two weeks; it was shortly after the election.

Q. Where were you when he said that?

A. Well, it was either on Delaware street or else in the club-rooms. I think it was in the club-rooms.

Q. Who was present?

A. I do not remember that any one was.

Q. How does it happen that you can so distinctly recollect his language, and not recollect either the time or place?

A. Well, I do recollect the time. It was in the morning of the day of the banquet, or the day before.

Q. But you cannot tell how long that was after the election?

A. I say it was at the banquet. I do not remember whether that banquet was ten days or two weeks after the election.

Q. What was the conversation that led to that statement?

A. It was a general conversation growing out of what had taken place at Topeka, who was to be down there, &c.

Q. How long did that conversation last?

A. I do not know; some little time.

Q. Can you not tell whether it was on the street or in a room?

A. I should say it was in the club-room. We met there frequently.

Q. I speak of this particular occasion.

A. I think we had more than one talk about it. It was referred to on more than one occasion; certainly on two or three occasions.

Q. How many banks were there in Leavenworth at that time?

A. I think there were six. There were five or six at that time.

Q. What was Mr. Smith's credit at Leavenworth at that time?

A. It was good.

Q. Could he not borrow almost any reasonable amount of money if he needed it?

A. O, yes, sir.

Q. What were you doing in a club-room, if that was the place?

A. We met there for a social chat.

Q. Did you take a social drink?

A. Very likely; or a social cigar, or something of the kind.

Q. Had you any connection with the First National Bank at that time?

A. I think I had, sir.

Q. Were you not a large stockholder in it?

A. Yes, sir; I was.

Q. Were you not in it frequently?

A. Yes, sir.

Q. Was there any time, to your knowledge, when that bank could not have furnished any reasonable amount of currency to Mr. Smith, or anybody else?

A. I do not remember any time that the bank could not have furnished him some currency.

By the CHAIRMAN, (Mr. Carpenter:)

Q. About how much could the bank at any time have furnished on perfectly good paper? What was the capital of the bank?

A. The capital was \$100,000. The bank, under the law, could lend ten per cent. of its capital to one man; but when we speak of the bank, it perhaps could not furnish very much at times, but it loaned out to the extent the law allowed. At all times it had fifty or sixty thousand currency, and always kept a certain amount on hand to comply with the law.

By Mr. CROZIER:

Q. He might have drawn his check on somebody else and had that cashed?

A. Yes, sir.

Q. Did he not keep his account at Scott & Company's bank?

A. Yes, sir.

Q. Is not that a pretty large institution for a small town?

A. Yes, sir. That is what I said to Mr. Smith then, that he could get the currency if he wanted to.

Q. Did you think he was trying to avoid paying them?

A. I did not know.

By Mr. CLARKE:

Q. Was Mr. Crozier at Topeka at that election?

A. Yes, sir.

Q. What was he doing there?

A. He was simply working for Mr. Caldwell.

Q. An active friend of Mr. Caldwell?

A. He seemed to be.

Q. Interesting himself for him?

A. Yes, sir, he seemed to be.

Q. One of his particular friends?

A. Yes, sir.

A. Did you have any conversation with him about these money matters?

A. I do not call to mind any special conversation. I had frequent conversations with the judge after the election, and before, and very likely at the time.

Q. Did he not tell you something like this: that he did not want to know anything about this money business?

The CHAIRMAN, (Mr. Carpenter.) If he did not want to know anything about it, it would not affect Mr. Caldwell, certainly.

The WITNESS. That was said long after the election.

MONDAY, *January 20, 1873.*

LEONARD T. SMITH recalled.

By the CHAIRMAN, (Mr. Carpenter:)

Question. Did you have a conversation with Governor Carney, on the day of, or the day before, that banquet, or the day before that, in relation to being under the necessity of raising funds to pay members of the legislature, or giving them money? If so, state what it was.

Answer. I never had any conversation of that sort with Mr. Carney.

Q. You have heard Mr. Carney's statement here?

A. I did.

Q. And you say you never had any such conversation?

A. I never had.

MONDAY, *January 20, 1873.*

SIDNEY CLARKE recalled.

By Mr. HILL:

Question. To what Senators did you show this letter that Governor Carney wrote to you from Saint Louis, and which has been exhibited here to-day?

Answer. I showed the letter to Senator Logan, of this committee, I remember now, in the ante-room or cloak-room of the Senate, and I think he read it.

Mr. LOGAN. I recollect you showed it to me, and I read a portion of it and handed it back.

The WITNESS. And I showed it to Senator Thurman, at his residence in this city, and he remarked to me—

Mr. CARPENTER. We do not ask what he said.

The WITNESS. He did not read it.

By Mr. HILL:

Q. Did you ever show it to me?

A. I never did. My present recollection is that I never had any private conversation with you on the subject in my life.

Q. You never spoke to me about this subject until you came into this room? What has occurred in this committee-room is all the intercourse I have ever had with you?

A. Never. I showed the letter to Senator Morton, but he never read it.

Mr. CALDWELL. When Mr. Clarke was on the stand, I asked a few questions, but, as the committee no doubt observed, I was not competent to cross-examine such a witness, and therefore I desire that he now be cross-examined by Judge Crozier.

The CHAIRMAN, (Mr. Carpenter.) You can proceed.

By Mr. CROZIER :

Q. You say you showed this letter to several Senators, whom you named.

A. Those I have named.

Q. What was your purpose in showing it to them ?

A. For the purpose of convincing them that it was necessary to investigate this election, in order to preserve the good character of the United States Senate.

Q. You thought it was incumbent upon you to preserve the purity of the Senate ?

A. Yes, sir ; I have been anxious that this investigation should be followed to its legitimate conclusion.

Q. Was that the sole reason ?

A. Yes, sir.

Q. Had you no personal motive in it ?

A. No, sir ; from the first I have——

Q. Please to answer that question. You answer that you had no personal motive ?

A. I was giving my answer. My answer is that from the first, in public and in private——

Mr. CROZIER. If the chairman please——

The WITNESS. I will give my answer in my own way.

Mr. CROZIER. I desire, Mr. Chairman, that Mr. Clarke shall answer my question, if it is proper ; and when he has answered it he can go on and explain.

The CHAIRMAN, (Mr. Carpenter.) If the question is improper it can be objected to, and the committee will rule upon it. If it is admitted, the witness can then make an answer direct to the question, and after that he may go on and explain.

By Mr. CROZIER :

Q. Had you any personal motive in exhibiting the letter to the gentlemen named ?

A. No, sir ; I do not know that I had.

Q. Why then did you do it ?

A. For the purpose of producing this investigation. Now, I wish to answer the question further, with the permission of the committee.

Q. Why did you want to bring about this investigation ?

A. At the time the subject was introduced into the legislature at Topeka, or about that time, I published a card addressed to the people of Kansas, in the Commonwealth, at Topeka, and having been a candidate myself for the Senatorship, and engaged in the whole of this controversy, and my own conduct having been introduced into the investigation before the legislative committee, I invited in that public manner the fullest and freest investigation into all my acts, both in public and private ; and I have urged as energetically and strenuously as I was able a full, free, and impartial investigation.

Q. Was that your sole object ?

A. I have already answered ; that was my purpose.

Q. Do you answer that that was your sole object?

A. Yes, sir; that was my purpose.

Q. I believe you said you were a candidate for the Senate at the time of the election of Mr. Caldwell?

A. Yes, sir.

Q. What was your official position at that time, if any?

A. I was a member of the House of Representatives of the United States from the State of Kansas.

Q. What preparations, if any, were made by you, or, by your directions, by your friends, for that canvass?

The CHAIRMAN, (Mr. Carpenter.) What is the object of that?

Mr. CROZIER. The witness has disclaimed any purpose of obtaining any money from Mr. Caldwell or his friends. I propose to show——

The CHAIRMAN, (Mr. Carpenter.) The question is proper.

Q. What preparations, if any, were made by you, or by your friends under your direction, for your accommodation or that of your friends, at Topeka, during the senatorial canvass?

A. I took every possible step that I thought necessary in the way of inviting my friends from different parts of the State to go to Topeka and in the way of correspondence, and in the way of personal solicitation—in fact, in every other proper way—to carry on an energetic political canvass.

Q. How many rooms were hired for you at the Tefft House?

A. I cannot answer that question.

Q. About how many?

The CHAIRMAN, (Mr. Carpenter.) It seems to me that is unnecessary detail.

Mr. LOGAN. Ask him what his campaign cost him.

By Mr. CROZIER:

Q. What were your expenses at Topeka?

A. I do not know, sir, for the reasons I testified in the first place. Mr. D. M. Adams made my arrangements and paid my bills. A portion of the bills were paid by Mr. Stevens and by Colonel Abell, and I have never known and do not know to this day what the aggregate expenses were.

Q. How much of these expenses did you pay yourself or agree to pay?

A. Well, sir, my recollection is that I deposited with Mr. Adams, for the purpose of paying these expenses, when I went to Topeka, twenty-four or twenty-five hundred dollars in the Kansas Valley Bank. Mr. Adams being my friend, drew this money and paid these expenses. I left Topeka the next day after the election. Mr. Adams settled up the whole matter, and sent me a note for about \$1,800, which I signed and have paid a portion, and a portion is unpaid, 600 odd dollars.

Q. Then the amount you paid and agreed to pay, on account of expenses, was \$2,500 and \$1,800, making \$4,300?

A. I should think that was about the amount of my expenses.

Q. What did that cover?

A. I have already told you I did not myself make these arrangements, and I do not know. I suppose, and I believe, that it covered the expenses at the hotel and the expense at the headquarters and across the street, where refreshments were furnished to my friends, and for rooms and various expenses of the gentlemen who were in my interest about the town. A very large number were present, and I suppose it would

not be extravagant to say that 200, or perhaps 300, but certainly 200, were there in my interest, and desirous of my election.

Q. Did they go there on your invitation?

A. A great many did. I wrote a great many letters, thinking it desirable that my friends should be there to help in my election. In fact, I tried to be elected.

Q. Was Mr. Stevens a friend of yours?

A. He was a friend to me.

Q. Was he there for the purpose of aiding you in the canvass?

A. My recollection is that Mr. Stevens——

Q. Was he or not; will you answer?

A. I cannot answer that question in that way. I cannot answer that question yes or no.

Q. Do you say that you do not know whether Mr. Stevens was there as a friend of yours?

A. I did not say that.

Q. Was Mr. Robert S. Stevens there as your friend to further your interest in the canvass?

A. I understood when he came there that he was a friend to me.

Q. Did you understand that from Mr. Stevens himself?

A. I do not know that I did.

Q. Did you invite him to go there?

A. It is quite likely I did. I invited those gentlemen whom I presumed to be friendly to me from various portions of the State.

Q. Did you invite him there as your friend if you did not believe him to be your friend?

A. He is my friend.

Q. Did you invite him there as your friend?

A. Yes, sir.

Q. That is what I wanted to get at. What was Mr. Stevens to do at Topeka in furtherance of your election?

A. I do not know that he was to do anything, only to aid in every way he could.

Q. What were Mr. Stevens's expenses?

A. I do not know, sir.

Q. Did you not say the other day in your examination-in-chief, or substantially say, that you estimated his expenses at about \$15,000?

A. O, no, sir; no sir. You have got the thing entirely wrong. I said that all the expenses incurred in the whole canvass might have amounted to twelve or fifteen thousand dollars.

By the CHAIRMAN, (Mr. Carpenter:)

Q. Incurred by you?

A. No, sir; incurred by myself and friends, meaning the expenses incurred by Mr. Stevens and the whole expense of the canvass.

By Mr. CROZIER:

Q. Did you not say in your examination-in-chief substantially that you had informed Mr. Caldwell that you thought Mr. Stevens's expenses were about \$15,000?

A. No, sir. The record is there of what I said. If it is put down that way it is put down wrong.

Q. You say you did not make any estimate of Mr. Stevens's expenses in any conversation with Mr. Caldwell. I ask if you say you did not say that the other day?

A. I say I said the other day to the committee, when they asked for the aggregate expenses, that I meant to include my own expenses

and the expenses paid by Mr. Stevens, and the expenses paid by Colonel Abell; and I ought to have added, if I did not, various other gentlemen. I think Mr. Adams went to some expense. I meant that general statement to include the expenses of the entire body of friends which I had at Topeka.

Q. What expense, to your knowledge, did Mr. Stevens actually incur there?

A. I do not know; only I know he had quite a large number of his personal friends there. I suppose he paid their expenses; I did not.

Q. Do you know?

A. Yes, sir; I know it was a very familiar matter there. I know the——

Q. Do you know that he had friends there whose expenses he was paying, or had agreed to pay?

A. No, sir; I do not know that he had agreed to pay them at that time. I learned by inquiry that Mr. Stevens had paid his bill.

Q. You said in your examination-in-chief something about an interview between yourself and Mr. Caldwell, which occurred in his room on the evening succeeding the first ballot.

A. No, sir; I did not say anything of that kind. I spoke of an interview between myself and Mr. Caldwell in an upper room of the Tefft House, but not his room.

Q. Whose room was that?

A. I cannot tell; I think it was on the upper floor, on the left-hand side passing from the front of the hotel, although I came up the other way.

Q. Do you know where Mr. Caldwell's room was there?

A. Yes, sir.

Q. Was it that room?

A. No, sir; he had the parlor proper of the hotel and the room adjoining.

Q. Was it in the parlor?

A. No, sir; it was in an upper room of the Tefft House.

Q. On the next floor above?

A. I cannot be particular. There are two ways of reaching the upper portion of the house, and my room being in the back part of the house, on the lower floor, I went up-stairs, and whether two or three pairs of stairs I cannot say. It would be impossible to be definite now. The interview was of a very remarkable character; I remember that quite distinctly.

Q. What time in the evening was that?

A. I can only fix the time by the fact that I was at supper when I received the note from Mr. Caldwell, and my recollection would be that I passed up to my own room and consulted. I cannot say who, but my room was full nearly all the time—such friends as happened to be there. I passed up very soon, but I cannot fix the hour.

Q. Did Mr. Caldwell then, in that interview, propose to you to pay your expenses?

A. Yes, sir.

Q. Did you decline?

A. I did, sir.

Q. When was the next interview you had with Mr. Caldwell?

A. I do not think I saw Mr. Caldwell again until I went up, at the request of the Atchison delegation, to invite him to step down into the room where the meeting of the delegation was being held.

Q. What time in the evening was that?

A. I think it may have been as late as 3 o'clock in the morning; but it may have been earlier or later.

Q. Had the caucus which you spoke of, in which you made the excited speech, adjourned at that time?

A. I think so.

Q. Was it understood among your friends then that you were not to be a candidate the next day?

A. Well, sir——

Q. Was it or not? Please to answer.

A. I can give you my understanding.

Q. Was that your understanding?

A. No, sir. I had an idea that I had been beaten by money, and it was useless for me to go into joint convention.

Q. Was it your understanding that you would be a candidate the next day?

A. So far as my friends were concerned——

Q. Will you answer that question?

A. I suppose the committee want the facts.

The CHAIRMAN, (Mr. Carpenter.) It is a proper question.

By Mr. CROZIER:

Q. Was it the understanding of yourself and of your friends, at the time you visited Mr. Caldwell's room the second time, that you were to be a candidate the next day or not?

A. I do not think that any formal decision had been reached, or any general understanding had been arrived at. That is my answer.

Q. When was it concluded between yourself and your friends that you would not be a candidate before the joint convention?

A. As I have already testified, as late as daylight or after daylight, some of my particular friends——

Mr. CROZIER. I do not want this witness to go on and state what occurred, but to answer my question.

The WITNESS. Ask it again.

Q. When was it concluded between yourself and your friends that you would not be a candidate before the joint convention?

A. No definite conclusion of that kind was reached between myself and friends. It was arrived at, as I have already testified, first by the decision of the Atchison delegation, who were a portion of my friends; and second, by the final action at my room next morning, at 9 o'clock, by nearly all of them.

Q. Was it finally concluded that you would not be a candidate at the caucus the next morning?

A. No, sir. That is not my answer. You ask me when it was finally concluded among my friends.

Q. Yes.

A. That was not in your question.

Q. Yes, it was. When was it?

A. I want to state the exact fact about it. The exact fact about this matter is that I made the speech at the caucus of my friends, in which I stated that if——

Mr. CROZIER. The witness has been over that two or three times. It is all in his original examination, and I do not ask to have it repeated here.

The CHAIRMAN, (Mr. Carpenter.) Then you had better ask him some other question.

By Mr. CROZIER:

Q. When did the Atchison delegation conclude to support Mr. Caldwell rather than you?

A. At the meeting to which I have referred; somewhere from 2 to 5 o'clock in the morning.

Q. Were you present?

A. I was present during a portion of the time, by request of the delegation, but not all.

Q. How did Mr. Caldwell happen to go to that caucus?

A. All that is in the direct testimony I have given.

Q. Will you state?

A. I have already testified that I was requested by the delegation to step up to Mr. Caldwell's room and invite him to step down to consult him about some local interests.

Q. Did you do that?

A. I did.

Q. How did it happen that you were selected to go for Mr. Caldwell?

A. Well, sir—

Mr. TRUMBULL. Where does this examination lead, or what can it amount to?

Mr. CROZIER. It will show that Mr. Clarke tried to make an arrangement with Mr. Caldwell to have his expenses paid. He has sworn he did not.

The CHAIRMAN, (Mr. Carpenter.) Be as brief as you can. Go on.

By Mr. CROZIER:

Q. You did go up to Mr. Caldwell?

A. Yes, sir.

Q. Where was he?

A. He was in bed.

Q. Did he go down with you?

A. Yes, sir. He got up and dressed.

Q. Did he go into the caucus?

A. He did.

Q. Where did you go from there?

A. I came out and went down into Mr. Stevens's room.

Q. Where was that?

A. It was Mr. Stevens's room which was—

Q. Was it on the same floor?

A. Yes, sir.

Q. In the Tefft House?

A. Yes, sir; very near the other end of the hall.

Q. Who was in Mr. Stevens's room when you entered it?

A. It was a general room.

Q. Who was in it?

A. I do not remember.

Q. Was anybody in it?

A. I think it quite likely there might have been a dozen gentlemen; but I cannot remember specifically.

Q. Was there any one?

A. I cannot remember specifically who were there; but I can only answer it was a general room.

Q. Was Mr. Stevens in it?

A. He was occupying it; out and in all the while.

Q. Was he in it when you went into it?

A. I do not remember; if not, he came in shortly afterward.

Q. When did Mr. Stevens come into that room after you went in, if he was not in there when you went in?

A. It was a room we were running in and out of all the time. I cannot say.

Q. Did you see him soon after you went in?

A. I cannot say.

Q. Did you see Mr. Caldwell afterward?

A. Yes, sir.

Q. How long afterward?

A. I cannot tell; sometime between that and morning.

Q. Did you go there from the Atchison delegation?

A. I do not remember that.

Q. Did you not state that after you had been to the Atchison delegation, and gone over to Mr. Stevens's room, that Mr. Stevens and Mr. Caldwell came in afterward, arm in arm?

A. It is quite likely. I know they came in.

Q. Together?

A. Yes, sir.

Q. How long after that Atchison delegation meeting?

A. I cannot tell the time.

Q. Was it an hour?

A. I cannot say.

Q. Was it between then and day?

A. The time between the adjournment of that delegation and daylight was not more than two hours. It was in that time.

Q. It was after they adjourned?

A. Yes, sir.

Q. Did Mr. Caldwell say anything to you then, in the presence of Mr. Stevens, about the payment of expenses?

A. Yes, sir; there was a conversation had there.

Q. Did he offer to pay your expenses?

A. Yes, sir.

Q. If the Atchison delegation had determined to support him, and desert you, what reason did he assign for offering to pay your expenses?

A. I did not have charge of Mr. Caldwell, and could not state what was going on in his own mind.

Q. Did he give any reason?

A. I do not know that he did.

Q. You declined?

A. I declined to make any arrangement. Inasmuch as Mr. Stevens was involved in expense, and others, I told them they could do as they pleased; but I declined myself.

Q. When, after the adjournment of that legislature, or after this election, rather, did you next see Mr. Caldwell?

A. After the adjournment of the legislature.

Q. After the senatorial election; after he was elected?

A. I went up with the crowd. There was a very large crowd went up to his room in the ladies' parlor.

Q. I mean after you left Topeka?

A. I saw him on the train going down to Lawrence.

Q. When did you next see him?

A. My recollection is that I did not see him until I saw him in Washington, when he came to my seat in the House of Representatives. I may have seen him at the hotel or on the street.

Q. Was it prior to the time he took his seat in the Senate?

A. Yes, sir; prior to the 4th of March. I fix that from the fact that I was a member of the House of Representatives.

Q. Did you call on Mr. Caldwell at his lodgings at any time after he arrived here, having been elected?

A. At any time?

Q. Did you call on Mr. Caldwell at any time here after he was elected?

A. You mean during the spring?

Q. Soon after he was elected?

A. It is quite likely.

Q. Did you not say here that you did call on him at his lodging on H street?

A. Yes, sir; I do not refer to that in my answer. I refer to his first visit here.

Q. When was it that you called on him there?

A. I fixed the time as near as I could in my previous testimony. I have nothing to fix it better.

By the CHAIRMAN, (Mr. Carpenter:)

Q. What time was that?

A. My recollection is it was at the close of the session of the Senate called to ratify the Alabama treaty, but about that I may possibly be mistaken. The interview is well fixed in my mind.

By Mr. CROZIER:

Q. Was that the last interview you had in this city with Mr. Caldwell?

A. No, sir.

Q. Where was the next one?

A. Well, sir, I withdraw that answer. I do not remember, Mr. Crozier, whether it was the last interview or not. I have testified to several interviews, but the order in which they came it is very difficult to fix.

Q. You cannot tell whether that is the last one you had with him or not?

A. I cannot tell whether this interview came before or after other interviews in reference to which I have testified.

Q. Was it the last time you visited Mr. Caldwell's lodgings in this city?

A. Well, sir, I do not know. I called upon him several times.

By the CHAIRMAN, (Mr. Carpenter:)

Q. At his lodgings?

A. Yes, sir.

By Mr. CROZIER:

Q. What was Mr. Caldwell doing when you called on him?

A. Packing his trunk.

Q. In reference to that can you say when that occurred?

A. I think it occurred at an adjournment of a session of the Senate.

Q. What session?

A. My impression is that it was a session called to ratify the Alabama treaty, but I have nothing definite to fix that positively.

Q. Was it in the warm weather, Mr. Clarke?

A. I wish to answer further as to this interview in reply to that other question.

Q. I wish you to answer this question first.

A. I do not remember the month.

Q. Was it at the time Mr. Caldwell was marking his trunk to go home?

A. Yes, sir.

Q. Who was present?

A. No person.

Q. Who was in his rooms or any of them?

A. I do not know that any one was.

Q. Was his private secretary?

A. His private secretary might have been in his front room; but the door was closed.

Q. Was it not at the adjournment of the session at which the treaty was ratified?

A. It might have been. I am not distinct. It might have been at the adjournment of the first session Mr. Caldwell was here.

Q. What was your business with Mr. Caldwell at that time?

A. My business?

Q. Yes; what was your business?

A. I had no business, only I met Mr. Caldwell here in the Capitol, and he remarked to me that he was going away and would like to have me come up and see him, and when I arrived there he commenced this conversation I have testified to.

Q. Did you ever go to Mr. Caldwell's lodgings in this city in reference to any business?

A. Yes, sir.

Q. Did you go at that time in reference to any business of your own?

A. I do not think I did, only in response to his invitation.

Q. What was the business you visited Mr. Caldwell about these other times, concerning which you spoke?

A. When he first came here, frequently it was in reference to the Lawrence post-office, frequently the adjustment of the accounts of Mr. Speer in the Treasury Department, and frequently gentlemen would write to me, I having been so long in Congress, about business, and I might have called upon Mr. Caldwell about any matter which was happening, connected with the State.

Q. At the time you went to his lodgings on H street, did you go to him in reference to the Lawrence post-office or the Speer business?

A. No, sir; but in answer to an invitation.

Q. Did you ever call on Mr. Caldwell on F street?

A. Yes, sir; I think while he was on F street I went to his rooms several times, sometimes alone, sometimes in company.

Q. Did you go to see him on F street in reference to the Lawrence post-office or the Speer account?

A. I do not remember that I did. If it was during the progress of that controversy, I did; if it was not, I did not.

Q. Who went with you to see him on F street?

Q. I remember going in one evening with some gentleman, I cannot remember who; we had been up to Senator Pomeroy's, and passing the door, it was said, "Let us go in and see Mr. Caldwell." I remember going in once when he was not in, and reading the Kansas papers, and sometimes I was there when he was there.

Q. Did you say in your examination the other day that the last time you called to see Mr. Caldwell at his lodgings was when he was on H street, near the Arlington?

A. I went.

Q. Did you or not say that?

A. I may have said so; I did not pretend in that examination to fix the date. It might have been that he occupied those rooms, but it is

impossible, Mr. Crozier, to fix in my mind dates relative to common calls.

Q. Did you, in the conversation you had with him on H street, mention to him the subject of his settling Mr. Stevens's expenses?

A. No, sir. Mr. Caldwell in all that——

Q. That will do.

A. Mr. Caldwell mentioned the subject himself.

Q. Did Mr. Stevens ever request you to call on Mr. Caldwell in reference to his expenses?

A. No, sir. I do not remember that I ever had but one conversation with Mr. Stevens since about the matter.

Q. Did Mr. Stevens, to your knowledge, ever visit Mr. Caldwell or make any claim upon him for his expenses?

A. My recollection is since this investigation commenced, although it is not very distinct——

Q. Can you not say whether he did or not?

The CHAIRMAN, (Mr. Carpenter.) Let him state his recollection.

A. That in this conversation I had, and I believe the only one with Mr. Stevens about the matter, that Mr. Stevens said that he had drawn upon or sent a letter to Mr. Caldwell soon after this arrangement was made, and that it was sent back or not honored, or something of that kind, but my recollection is not very distinct. I have an impression that in the conversation Mr. Stevens so stated.

By Mr. CROZIER :

Q. Do you say that Mr. Caldwell, at Topeka, voluntarily offered to pay your expenses in the election after the Atchison delegation had concluded to desert you, and that you declined to receive it? Do you say that?

A. That question is more of an answer than a question, I take it.

Q. Was that the situation?

A. I have already stated twice——

Q. Was it, or not?

A. Well, sir, I do not desire that you should frame my answer for me. I will make my own answer. I have already stated the interview between Mr. Caldwell, and Mr. Stevens, and myself, in Mr. Stevens's room——

Mr. CROZIER. I withdraw the question if the witness is going to make a long explanation. I do not want to consume the time.

Q. Did you at any time since the election of Mr. Caldwell call on him and demand of him, or request of him, the payment of your expenses?

A. No, sir; in all these conversations——

Q. That will do.

A. I uniformly told Mr. Caldwell that, if he had made an arrangement with Mr. Stevens, he must fix it with him.

Q. Did you not ask of Mr. Caldwell \$15,000 at one or more of these interviews to re-imburse you for your expenses at Topeka, and did he not refuse to pay it?

A. No, sir; not in that shape.

By the CHAIRMAN:

Q. Well, in any shape, in substance like that?

A. No, sir; the subject was introduced by him in the form of an apology that he had not settled with Mr. Stevens.

Q. What made you answer, "Not in that shape," intimating that it was so, but in some other shape?

A. With the explanation I have given you.

By Mr. CROZIER :

Q. After the election of Mr. Caldwell to the Senate did you say in substance to Senator Pomeroy, in this city, that you had been instrumental in the election of Mr. Caldwell to the Senate, and that you thought he would make an efficient officer? Did you say that, or say it in substance, to Senator Pomeroy?

A. On my return to Washington after the senatorial election, I met Mr. Pomeroy, and gave him a history of the election and my action and connection with it, as I have given it to this committee.

Q. Can you not answer? I ask if, after the election of Mr. Caldwell to the Senate, you in substance said to Senator Pomeroy in this city that you had been instrumental in the election of Mr. Caldwell to the Senate, and that you thought he would make an efficient officer?

A. I did, except the words "that I had been instrumental." I meant my friends had been instrumental.

Q. Am I to understand, then, that you did not say to Mr. Pomeroy that you were instrumental in the election of Mr. Caldwell?

A. I ask you to understand my answer just as I gave it.

Mr. CROZIER. Shall the witness answer the question?

The CHAIRMAN, (Mr. Carpenter.) You can ask him whether he did or not tell Mr. Pomeroy that he had been instrumental in producing or causing the election of Mr. Caldwell. (To the witness.) Did you tell Mr. Pomeroy that you had been instrumental in electing Mr. Caldwell?

A. No, sir; not I individually.

Q. Or your friends?

A. Yes, sir, I did; that we had been aiding his election.

By Mr. CROZIER :

Q. Did you say the same thing in substance at different places in the State of Kansas?

A. Quite likely.

Q. When, with reference to the date of that letter from Governor Carney, were you in Saint Louis? That letter is dated the 9th of April.

A. I cannot fix the time, only it was on my return from Kansas.

Q. Was it during that month?

A. I cannot fix the time. I will state so that the committee will understand. I returned home to Kansas and then came here again. I think I saw Governor Carney in passing through Saint Louis.

Q. You were then in Saint Louis before the 9th of April?

A. I cannot say that. I do not remember the date.

Q. That letter was dated the 9th of April?

A. Yes, sir. I do not understand your question. I called to see Governor Carney.

Q. When was that?

A. In coming to Washington previous to the date of that letter.

Q. How long previous?

A. I should think some weeks. This matter was lying here quite a while. It was quite a while before the record reached the Senate, and some time before the committee was charged with it. It must have been some weeks.

Q. Did you not return to Washington and stop in Saint Louis about the 18th of April?

A. I do not remember the dates. I will give the committee my recollection. After this investigation had been concluded at Topeka I came to Washington. I stopped at Saint Louis and saw Governor Carney, and asked him if he desired to have this matter thoroughly investi-

gated. He said he did, and I came to Washington, and before the matter was disposed of at the spring session I returned home, and also went to Cincinnati and met Governor Carney, as he testified, but the dates are not fixed in my mind.

Q. At the last interview you had with Governor Carney previous to the date of that letter, did you request him to send such a letter to you at Washington?

A. No, sir; I requested him to come here personally.

Q. Did you write to him from Washington about such a letter?

A. No, sir; I do not think I did. I, however——

Q. That will do. I only wanted an answer to my question. Do you recollect of meeting me at the Metropolitan Hotel in this city and stating that you had this letter?

A. No, sir. I do not remember it. I know that you were here, but I fix the time in my mind by a letter which I received from Kansas stating——

The CHAIRMAN. Never mind about stating that letter.

By Mr. CROZIER:

Q. Did you ever have an interview with Mr. Len. T. Smith at the Metropolitan Hotel in this city within the last year?

A. It almost always happens when Smith comes to Washington that I meet him, and it is likely I did.

Q. Did you, in an interview with him at the Metropolitan, say that Mr. Caldwell must pay your expenses in that election, or anything to that effect?

A. No, sir; I said this—I remember, since you have called my attention to it, that I met Mr. Smith at the Metropolitan Hotel, and he asked me if Mr. Caldwell had fixed that matter with Stevens, and I told him, “No.” Said he, “He ought to do it.” I said, “That is so.” The interview took place in the saloon of the Metropolitan Hotel.

Q. How did you know he did not fix it up with Stevens?

A. Well, sir, I had never heard of it when I answered him.

Q. Was Mr. Stevens anxious to have it fixed up?

A. It was simply an accidental remark. I think I was taking a glass of lemonade with Mr. Smith.

Q. Where was that, and do you know the time?

A. Only it was at the Metropolitan Hotel.

Q. Was that all of that conversation?

A. That was about the substance of it.

By the CHAIRMAN, (Mr. Carpenter:)

Q. Did you ever at any time or place make any request of Mr. Caldwell, or any of his friends, that he should pay your expenses, or any portion of them, or contribute at all to them?

A. No, sir; unless the statement I made to him that he should conclude or settle this arrangement that he made with Stevens can be construed into that. For myself, individually, I can answer, I did not.

Q. You say you never had conversations with him at any time in regard to any expenses, except those of Stevens.

A. You do not understand me: except as to the arrangement which he made with Stevens.

Q. What was that arrangement?

A. Including all these expenses; the whole of the expenses, not only the expenses of Mr. Stevens, but of myself and other friends.

Q. That comes to this: that when you said he ought to pay Stevens's claim, you meant he ought to pay all these claims?

A. I meant that he ought to carry out the understanding he had entered into with Stevens.

Q. Which was to pay all your expenses?

A. Yes, sir.

By Mr. HILL:

Q. Was that arrangement with Mr. Stevens made by your direction?

A. No, sir. It was made, as I have stated, when Mr. Caldwell and Mr. Stevens and myself were present in Mr. Stevens's room, about daylight, and I declined myself to be involved in the matter; but Mr. Stevens and others having incurred a portion of the expense, I said he could do what he pleased about it.

By Mr. CROZIER:

Q. The arrangement made with Mr. Stevens was, that he was to pay all the expenses of yourself and friends that entered into that particular campaign at Topeka?

A. Yes, sir.

By Mr. HILL:

Q. And you complained of him that he did not carry out his agreement with Stevens?

A. Yes, sir; in this conversation when he introduced the subject.

By Mr. CROZIER:

Q. What amount did Mr. Stevens claim?

A. I do not know. I think twelve or fifteen thousand dollars was talked of as what it should be.

Q. Were your expenses included?

A. I do not know that they were mentioned, but I think they were included.

By the CHAIRMAN, (Mr. Carpenter:)

Q. Is there any explanation or statement you want to make?

A. Nothing occurs to me at this moment.

Q. In other words, you can cross-examine yourself.

A. I do not wish to.

At 5 o'clock and 20 minutes the committee adjourned to meet again on to-morrow, (Tuesday,) January 21, at 10 a. m.

TUESDAY, *January 21, 1873.*

C. H. STILWELL sworn and examined.

By the CHAIRMAN:

Question. Where do you live?

Answer. In Leavenworth.

Q. How long have you lived there?

A. Ten years.

Q. Were you present at a conversation between Mr. Anthony, the editor of the Times, and Mr. Tom Anderson, in Topeka?

A. I was present in Colonel Anthony's office, and heard part of the conversation.

Q. State what you heard, if anything, said by Mr. Anderson in regard to a \$3,500 note.

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A. I heard Mr. Anderson state to Colonel Anthony that Mr. Caldwell owed him a balance on a note, and that he came down to get his pay on it; that he should not go until he got his pay, or got it settled up. I happened into Colonel Anthony's office and heard that.

Q. What was said in regard to the consideration of that note or what it was for?

A. I do not know as I could distinctly tell; it was about this note; that Mr. Caldwell in the election had employed him to pay out certain money.

Q. To pay out some money?

A. Yes, sir; to pay out some money toward the election, and he had paid out some money, and this balance was coming to him.

By Mr. CROZIER:

Q. State that louder, so we can hear it.

A. He said that Mr. Caldwell owed him a balance on some money he had advanced—I think it was on a note or balance coming to him—and that he had come down to settle it up.

By the CHAIRMAN:

Q. Did he state to whom he had paid this money?

A. He did not in my presence.

Q. Was anything said about the kind of service he was to render or had rendered to Mr. Caldwell?

A. I think he said he was a sort of purser or treasurer or something like that; that he was acting in something of that capacity.

Q. Was anything said about the gross amount he was to receive for his services?

A. I did not hear anything said about it.

Q. Was anything said about having called upon Mr. Caldwell before to pay it?

A. I think he said Mr. Caldwell had neglected to settle the matter, and that was the reason he was there.

Q. Did he seem to be under some excitement?

A. Not a bit.

Q. None at all?

A. None at all. There did not seem to be any secret about it. It was just said right before me. I was acquainted with him.

By Mr. CROZIER:

Q. Will you say that so that we can hear it?

A. I was acquainted with Colonel Anderson, and just barely walked up and shook hands with him while in conversation with Colonel Anthony at the moment. My speaking to him stopped him, and then he went right on with the conversation.

By the CHAIRMAN:

Q. Was anything further said about the Caldwell election in that conversation?

A. Just that.

Q. Was there anything further occurred on that subject?

A. I do not remember that there was anything particular.

Q. Did you ever hear Mr. Anderson talk about the matter at any other time?

A. I did not. I never have seen him since, that I know of.

Q. Did you have any conversation with Mr. Caldwell on that subject?

A. Not a word.

Q. Was anything said in that conversation about Mr. Anderson having left the State to avoid an examination at Topeka?

A. There was something said about his going to Chicago; just barely that. I do not think he stated in my presence that he was or was not going, but I got the impression, from what he said, that he was going.

Q. Was that at that time?

A. Right at the same time; I was there only a minute or two.

Q. Was the investigation going on at Topeka at the time?

A. Yes, it was during that time, or just at the close. I know the excitement was up about it.

Q. Did you get the impression, from what he said, that he was going away to avoid examination?

A. I did not get that impression, that he was going away to avoid examination.

Q. You did not get that impression?

A. No, sir; he just said that he was going to Chicago.

Q. You say he did not intend to leave the city?

A. Not until he got it settled with Mr. Caldwell.

Q. Did he say how he intended to secure a settlement?

A. He did not.

Q. Did he make any threat about it?

A. He was just in earnest about it.

Q. Did he make any threat?

A. He just talked in a business way.

Q. That he did not intend to leave until he got it fixed?

A. Yes, sir; that he came down for that purpose, and was not going to leave until he got it fixed up.

Q. Do you know anything else in regard to this election?

A. No, sir.

By Mr. CROZIER:

Q. What is your business?

A. My business is now agent for the opera-house and general advertising.

Q. You mean bill-posting?

A. I mean that in connection with it.

Q. How was Colonel Anthony advised, or whoever else it was at whose instance you were summoned here, what you could testify about?

A. A few days before Colonel Anthony started here, (my headquarters were in his office,) he was conversing with Mr. Marshall and others in the office, and I was present. He was stating over what conversation had passed between him and Major Anderson, and I remarked to the colonel that I was in there and heard part of that.

Q. What room were you in?

A. I think it was in Colonel Anthony's little back office—the small office.

Q. Where were Colonel Anthony and Mr. Anderson?

A. My impression is they were sitting near Mr. Anthony's table, but I might be mistaken; it might have been close to the stove.

Q. Were they in the same room with you?

A. Yes, sir; I walked up to Major Anderson and shook hands with him; it was so we could touch; it was a little small place.

Q. Were you in the same room with them when this conversation took place?

A. Yes, sir.

- Q. Was there any effort to conceal any part of it from you?
A. Not at all.
- Q. How was it that you did not hear it all?
A. I was only there a minute; as soon as he had spoken to me, he talked right on about what he was talking on before. In a minute I went out.
- Q. How long were you there?
A. I do not suppose I was there more than two or three minutes in all.
- Q. Did you stop and listen to this conversation?
A. I just stopped and listened to that much and went out. I could not help to hear it.
- Q. Did Mr. Anderson say he held Mr. Caldwell's note for \$3,500?
A. I do not remember that he said "note," but there was some agreement—some balance due him.
- Q. Some \$3,500?
A. I do not remember just the amount, but a balance was due him from Mr. Caldwell.
- Q. Did he say it was on a note?
A. I do not remember that he did; it was something due him.
- Q. Did he say on an agreement?
A. Yes, sir; a balance due him from Mr. Caldwell.
- Q. Did he say what it was for?
A. Yes, sir; he said it was for money he had paid out.
- Q. What for?
A. To assist Mr. Caldwell in his election.
- Q. What did he say?
A. That is just what he said.
- Q. Did he say to Colonel Anthony that he had paid out \$3,500?
A. Not in those words.
- Q. To assist in the election of Mr. Caldwell?
A. Yes, sir; that he was assisting Mr. Caldwell in the election.
- Q. Did he say he had paid it out in the way of expenses, or to persons for their votes?
A. He did not say a word about members, or indicate it.

WASHINGTON, D. C., *Tuesday, January 21, 1873.*

Hon. SIDNEY CLARKE, recalled.

By Mr. CROZIER:

Question. Were you actively instrumental in bringing about the investigation that occurred in Topeka in January, 1872?

Answer. Well, sir, I have always been in favor of having this matter investigated by the legislature and the Senate.

Q. You were actively promoting that object?

A. Yes, sir. I published a card in the Topeka Commonwealth, addressed to the people of Kansas, inviting, so far as I was concerned, the fullest and freest investigation into the whole matter.

Q. Do you know Mr. Nathan Cree?

A. Yes, sir.

Q. Did you furnish him with a memorandum of the persons who had been bought, or supposed to have been bought, or whose votes had been

bought, together with the names of persons by whom that could be proven?

A. I had two or three conversations with Mr. Cree. He was then editor of the Standard, published in Lawrence, where I reside. I had conversations with him, in which I urged the propriety of having these transactions investigated, and spoke to him of some members of the legislature in reference to which testimony has been submitted here.

Q. Did you furnish him with the names of persons whose votes you said had been sold to Mr. Caldwell, and the names of persons by whom that fact could be substantiated, with a view——

A. That whole matter——

Q. Wait a moment, as I ask you the question—with a view of having an article published in the Standard, of Lawrence, on the subject of an investigation?

A. The article which is published in the Standard——

Mr. CROZIER. I would like to have an answer to my question.

WITNESS. I will answer in my own way, with the permission of the committee.

The CHAIRMAN. Answer all the questions as nearly direct as you can. He has a right to put it in that form.

The WITNESS. I have no doubt that the article published in the Standard grew out of the conversation I had with Mr. Cree.

By Mr. CROZIER:

Q. Did you furnish him a memorandum of the names of those persons?

A. I think, perhaps, at the time of this conversation, we had a volume of the laws of Kansas, which contained the names of the members of the legislature, and I think Mr. Cree checked upon that list the names of a portion; perhaps I checked a portion of the names myself. It is quite likely I might have written down the names of persons by whom I had good reason to believe these allegations could be sustained.

Q. What is your best recollection on that precise point—whether you wrote down the names?

A. My recollection is, that I had two or three of these conversations——

Q. I mean on that point, whether you wrote down the names?

A. I think a portion of the memorandum—my recollection has been refreshed since—a portion of the memorandum was written by myself and a portion by Mr. Cree.

Q. One other question: I believe you testified, Mr. Clarke, before the investigation committee at Topeka, did you?

A. Yes, sir. Now, before I answer these questions, I ask the permission of the committee to make a statement in reference to my testimony given before that committee.

Mr. CROZIER. I want to ask the witness another question before he goes into the statement.

The CHAIRMAN, (to the witness.) Please to answer his questions first.

By Mr. CROZIER:

Q. Did you in that investigation testify to a conversation between you and Mr. Caldwell that you said had happened before that time, in which Mr. Caldwell stated to you that his election had cost him \$75,000? Did you testify to that fact before the investigating committee at Topeka?

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A. I do not think that that is in the record, sir.

Q. Did you so testify?

A. No, sir; I think that matter was not up.

Q. Why did you not state that fact there as well as in your examination here?

A. The investigation before the committee at Topeka was conducted in a very unfair and, as I regarded it, improper way. I had enough to satisfy my own mind that Mr. Snoddy had been influenced by advances made by friends of Mr. Caldwell. An inspection of the printed record will show that the investigation was not conducted with a view of eliciting the facts, but with a view of making an attack on myself and Mr. Pomeroy.

Mr. CROZIER. I would be glad to have the chairman require the witness to answer my question.

The WITNESS. I ask permission to make a statement.

The CHAIRMAN. You can answer the questions of Judge Crozier. You will have an opportunity to make your statement.

The WITNESS. I am stating why——

By the CHAIRMAN:

Q. Was this question asked you at Topeka?

A. No, sir.

Mr. CROZIER. I will ask a question, and then the witness can go on with his statement.

The WITNESS. I ask leave to make a statement now. I was summoned to appear before the legislative committee at Topeka, and I testified before that committee; and the testimony was taken down by the Rev. Mr. Chew, a stenographer residing at Ottawa, Kansas, but not actively engaged in the business of stenography. I asked permission to read my testimony. The chairman read my testimony over after it had been taken down. I went into the room, and Mr. Snoddy refused to allow the testimony to be placed in my possession, but sat at the table with a pencil in his hand, in this form, [illustrating,] and then he made a portion of such corrections as I suggested. But, when the testimony came to be printed and I saw it, I was surprised to find, upon an examination of it, that no correction whatever had been made in my testimony.

By the CHAIRMAN:

Q. Had the testimony been taken down in full?

A. No, sir; it was taken down very imperfectly, indeed. I now refer to the corrections which I made after the testimony was taken down in the imperfect manner. I desire to state to this committee that no corrections whatever were made in my testimony taken before that committee.

By Mr. CROZIER:

Q. Did you make any corrections to show that you did make the statement in reference to Mr. Caldwell saying to you that \$75,000 had been expended by him in his election?

A. No, sir. The question was not asked me, and I did not testify in regard to it.

Q. Was this question asked you, "Do you know whether, or not, in that contest, any money or other valuable consideration was offered by Mr. Caldwell or his friends to get votes for Mr. Caldwell?"

A. It is quite likely.

Q. Was this your answer, "I know it only as it was communicated to me by other persons?"

A. I presume so.

Q. "By whom were such facts communicated?" Was that asked you, and in answer to that question did you include a statement that Mr. Caldwell had said to you that his election had cost him \$75,000?

A. I think I have already answered that question—that I did not testify on that point.

Q. I wish to examine you in my own way. Did you make any such statement in answer to that question?

A. I think not.

Q. Was this question asked, "Did you receive such or similar information from any other person?"

A. I cannot recollect.

The CHAIRMAN, (to Mr. Crozier.) Does that refer to a question up before?

Mr. CROZIER. It does; and he goes on to say that information was furnished by Wood, Peckham, and others, and it is this question I ask: "Did you receive such information from any other persons?" Was this your answer, "Yes, sir?"

A. I certainly cannot remember that the particular question was asked me. It evidently was, because the counsel is reading it before him.

Q. Was the question, "From what other persons," asked you?

A. Well, sir, I don't know.

Mr. CROZIER. I offer, in this connection, to offer so much of this testimony in this book (report of the Kansas investigating committee) as bears upon that point.

Mr. CLARKE. I wish to add to the statement that I made in the commencement of my testimony in Topeka, that Mr. Snoddy sent for a Mr. Smith, living in a remote section of the State, to come and copy the testimony; that Mr. Smith was a particular friend and partisan of Mr. Snoddy.

By Mr. CROZIER:

Q. Before you testified in that examination, were you sworn to testify the truth, the whole truth, and nothing but the truth?

A. I don't remember the form. I think that very similar.

Q. Did you omit to state then that Mr. Caldwell had said to you that his election had cost him \$75,000, for the reason that you considered Mr. Snoddy unfair?

A. I will state the reason why my testimony appears in that form.

Q. Will you answer that first. Was that the reason why you omitted this admission of Mr. Caldwell that his election cost him \$75,000? Was it because you considered Mr. Snoddy unfair? Answer that; then you can make an explanation if the committee desires it.

A. That was partially the reason, but not entirely. The investigation at Topeka was conducted in such a way that the witnesses were refused by Mr. Snoddy to be allowed to answer except such questions as he proposed to them. Frequently at Mr. Snoddy's direction or dictation, as the case might be, the reporter was directed to go back and strike out, and the manner of the giving of that testimony was more in the form of a controversy than in the form of a legitimate examination. It was a controversy between the chairman of the committee and the witness; and, so far as I am concerned, I desire to state to this committee that I was not allowed by Mr. Snoddy, the chairman, to testify fully, and fairly, and freely in reference to this matter.

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By the CHAIRMAN :

Q. Do you mean to say that he refused to allow any answer that was not in direct response to a question of his ?

A. I mean to say that he conducted the examination, and that he frequently refused to allow me to go outside of the question propounded.

Q. Did he not ask you whether you had had any conversation with Mr. Caldwell ?

A. I do not remember now.

Q. When the examination was going on, was it present in your mind and memory that Mr. Caldwell had told you that his election had cost him \$75,000 ?

A. No, sir ; I do not think it was. The examination was more in the form of a controversy.

Q. But did you remember at that time ; was it in your mind ?

A. I do not think it was. I do not think that, at the moment the testimony was given, that matter was in my own mind.

By Mr. CARPENTER :

Q. You knew what the subject of that investigation was ?

A. Yes, sir.

Q. You knew that it related to this question whether Mr. Caldwell had used any money in that election ; that that was the principal thing to be investigated ?

A. Yes, sir.

Q. Is it not very remarkable that, if you were called there as a witness in that investigation, knowing that that was the only object, that you forgot that Mr. Caldwell had told you that it cost him \$75,000 ?

A. No, sir.

Q. Not at all remarkable ?

A. No, sir ; for this reason : the investigation was in the form of a controversy between Mr. Snoddy and myself, and I strenuously tried for several hours—three or four hours—to give my testimony in a proper manner, but was refused the privilege.

Q. Do you mean you got so angry you forgot what Mr. Caldwell had told you ?

A. No, sir. But Mr. Snoddy was attacking me the whole time, and evidently warding off and trying to prevent me from saying anything about Mr. Caldwell.

Q. Was no question put to you to which you could have included that Mr. Caldwell told you this ?

A. It is possible.

Q. When this question was put, did not that call to your mind that he had told you so ?

A. I can't say I had it specifically in my mind. I had the whole matter in my mind.

Q. When these questions were put to you, did it not at the time suggest to you that Mr. Caldwell had already told you what covered the whole case, to wit : that his election had cost him \$60,000 ? Did not that occur to you ?

A. I think the whole matter was in my mind.

Q. But do you think that particular thing was in your mind ?

A. I do not think it was in my mind at any specific time.

Q. Was it in your mind during your examination—at any time during the examination ?

A. Well, yes, sir ; I think the matter was.

Q. Then, why did you not state it?

A. The whole question or subject was in my mind, as I have said.

Q. Why did you not state it?

A. I have tried to answer you, that Mr. Snoddy tried to prevent me.

Q. You have said that twenty times.

A. No, sir, I have not said it twenty times.

Q. Do you mean to say that, when you attempted to answer, he prevented you from answering—from making that statement?

A. I mean to say that whenever I went to testify in reference to Mr. Caldwell, I was arrested in the testimony, and my attention was directed in other directions. That was the general form of the examination, or rather controversy.

Q. There was no opportunity for you to say, in the course of the examination, in response to any question, what was in your mind?

A. I suppose I ought to have fought it through; but the controversy was very determined between Mr. Snoddy and myself. My testimony was concluded without bringing that out.

Mr. CROZIER. Will the chairman ask Mr. Clarke if Mr. Snoddy was a friend of Mr. Caldwell, or friendly to him, either before his election or since?

The CHAIRMAN. Judge Crozier asks that question; please answer it.

The WITNESS. The understanding was there, that publicly he was an opponent of Mr. Caldwell, but that privately he was operating in his interest. That was the general understanding about the legislature.

By Mr. CROZIER:

Q. Do you know anything on that point yourself?

A. Only as we understand the position of public men. I do not know it myself of my own knowledge.

By the CHAIRMAN:

Q. You spoke a moment ago about Mr. Pomeroy. What was the *animus* toward Mr. Pomeroy on the part of Mr. Snoddy?

A. Mr. Snoddy is recognized in Kansas as a bitter opponent of Mr. Pomeroy.

Q. That was not the point. Were there efforts to drag Mr. Pomeroy into the controversy?

A. Yes, sir. The understanding in the legislature was that Mr. Pomeroy should be dragged in, and his election of six years ago should be introduced to break the force of the Caldwell part of the investigation.

By Mr. CARPENTER:

Q. How would that break its force?

A. I cannot account for the ideas which some gentlemen have in Kansas.

Q. In your opinion, would it tend at all to break its force?

A. Not here, before intelligent gentlemen; but about the Kansas legislature it was viewed in another way.

Mr. CARPENTER. They thought it could be justified as the custom of the country.

By Mr. HILL:

Q. Did you, at the time you testified before the committee at Topeka, while you were testifying, have a determination to bring this matter before the Senate of the United States?

A. Yes, sir, I had the determination from the first to urge the investigation.

Q. Did that make you in any wise indifferent as to the character of what transpired there—that determination; or how was it?

A. Well, no, sir. I attended the investigation at Topeka, at first, under the impression that it would be legitimately conducted; but I soon found that it was not an investigation of Mr. Caldwell, but an investigation of Mr. Clarke and Mr. Pomeroy.

Q. And you made up your mind then to bring the matter here?

A. I have always been in favor of it; and made up my mind to do what I could to secure investigation.

By the CHAIRMAN:

Q. Would you have moved in this matter, as you say you did, and you thought you ought to, if Mr. Caldwell had complied with the promise you understood he made to Mr. Stevens, or admitted he made to him, in regard to paying your expenses?

A. Yes, sir. I have never occupied but one position about it. I published a card, as I said before, at the outset.

Q. You stated to the committee that your movement in the matter was not caused by the failure of Mr. Caldwell to pay the sum of money.

A. It was not.

By Mr. CARPENTER:

Q. Mr. Hill asked you whether the fact that you intended to bring the matter before Congress made you indifferent to the investigation. Did it also make you indifferent to what you testified to at that investigation or what you omitted to testify to?

A. No, sir.

Q. That, therefore, was no reason why you did not state that Mr. Caldwell had told you that his election had cost him \$75,000 in money?

A. No, sir. I have stated the reason: that I was prevented from doing it properly.

By Mr. HILL:

Q. Did you volunteer any statements in that investigation?

A. No, sir. I was being examined under oath, and this controversy arose and proceeded in that form I have described to the end.

Q. Were your answers responsive to questions, or were they voluntary statements, when you gave your testimony at Topeka?

A. Well, sir, they were a portion of both.

By Mr. CARPENTER:

Q. I understand you to say that questions were put to you to which you could have answered that Mr. Caldwell had told you that his election had cost him this money?

A. I think there were such questions asked.

Q. Yet you did not answer stating that fact?

A. I tried to answer it.

Q. Do you say, in that investigation, you tried to state that Mr. Caldwell had told you of his election costing him a particular sum of money?

A. I tried to give a true statement of the whole matter.

Q. Please to answer me. Did you try to state the fact that Mr. Caldwell had told you that his election had cost him a particular sum of money?

A. Yes, sir.

Q. And you were prevented from doing so?

A. In the manner in which I have stated. I went before the committee for the purpose of testifying, as I deemed a witness had a right to testify before any body of honorable gentlemen, but was arrested at almost every step by this man Snoddy; and the testimony as given was stricken out and interfered with; and my answers were, in a manner, dictated to me; and it is not possible for me, in language, to describe to this committee the unfairness of that proceeding, and what I regard as the personal injustice to myself of the whole transaction.

Q. Where does Mr. Snoddy now reside?

A. In Linn County. At Mound City, or La Cygne.

Q. What members of the committee conducted the investigation?

A. I will tell as far as I remember. Mr. Snoddy was chairman; there were Senators Stover——

Q. Where does he reside?

A. Council Grove, Kansas. Mr. W. H. Clark——

Q. Where does he reside?

A. At Ottawa, Kansas. Another Mr. Clark was from Morris County.

Q. Where does he reside?

A. At Parkerville. Mr. Henry C. Whitney, a senator from Allen County. That is as far as I recollect at this moment. I think there were one or two other gentlemen.

By Mr. ALCORN:

Q. As to the form of the investigation: Did you say that Mr. Snoddy propounded the interrogatories that were made to you?

A. Yes, sir; in the main.

Q. To all the witnesses?

A. Not all of them. He led in the examination.

Q. There were those present who sat in the attitude of prosecutors upon that investigation?

A. No, sir; it was a secret investigation. One witness was brought in and then another, and no other persons.

Q. Did you make any statement there material to this issue that was excluded by Mr. Snoddy from the record because of the fact that it was not responsive to a direct interrogatory?

A. My judgment is—and I state it as my judgment—that the testimony was very imperfectly taken down by Mr. Chew, who was a very honest, upright man, but out of practice.

Q. The point I wished to urge was whether any material statement which you offered on that occasion was, by the ruling of Mr. Snoddy, the chairman, excluded from the testimony or the record of the testimony.

A. I think it was changed all the way through. But I wish the committee to understand my meaning. I think that during that investigation the clerk was instructed to go back and strike out——

By Mr. CARPENTER:

Q. Who was that clerk?

A. Reverend Mr. Chew, of Ottawa, Kansas.

Q. A short-hand writer?

A. Yes, sir; and a very upright, intelligent gentleman; but I think out of practice a little in that line.

By the CHAIRMAN:

Q. Does the printed record of your testimony given on that occasion contain all that you said?

A. No, sir.

Q. What proportion does it contain?

A. Well, sir, I can't say; but at the time when I read it, and made corrections, I regarded the omissions and corrections as material.

By Mr. CARPENTER:

Q. Did you correct your testimony before it was printed?

A. Yes, sir; as I have stated, and Mr. Snoddy printed it without the corrections.

Q. Did you, in your corrections, offer or ask to put in this statement that Mr. Caldwell had told you that his election cost him money?

A. No, sir.

Q. You did not try to correct it in that respect?

A. No, sir.

Q. Why?

A. I don't think it occurred to me at the time. The relations between Mr. Snoddy and myself were such that we were not on speaking terms. As I said, I went there and he made marks with a pencil, and we have not, to my knowledge, spoken since. We had not before for several years.

By Mr. TRUMBULL:

Q. You would not have had any right to correct your testimony by putting in new matter, would you?

A. No, sir; I did not so understand it.

By Mr. LOGAN:

Q. I find this investigation commenced on the 30th of January, 1872, according to the date here, and on the 1st day of February, 1872, this resolution appears in your examination:

“THURSDAY, *February* 1, 1872.

“The committee met pursuant to adjournment.

“All the members present, except Senator Stover.

“Senator Snoddy in the chair.

“The following resolution was moved and carried unanimously:

“*Resolved*, That each witness produced before this committee shall be informed that his entire evidence, whether direct or explanatory, will be recorded, and it shall be the duty of the committee to cause to be recorded every interrogatory propounded and everything which a witness testifies to in his examination.”

That resolution seems to have been passed on the 1st of February?

A. Yes, sir.

By the CHAIRMAN:

Q. Was that at the beginning of the examination?

A. No, sir.

By Mr. LOGAN:

Q. The examination commenced on the 30th of January, and this was shortly after that. Was it before or after the passage of this resolution that these corrections were made and statements stricken out?

A. The corrections which I made in my testimony were made after my whole testimony was given.

Q. You spoke of the chairman of the committee causing the clerk to strike out a portion of the testimony?

A. Yes, sir.

Q. Was it after the passage of this resolution that this striking out of testimony was done? Was it after the 1st of February?

A. My recollection is, although I have not looked at the record lately, that I was before the committee at two sittings.

Q. Yes; more than two sittings, according to the record.

A. And I think the record will show that after I had been before the committee and when I was called in again, perhaps from the afternoon to the evening session, this resolution was passed.

By Mr. CARPENTER:

Q. Were you informed of the resolution at the time?

A. Yes, sir; I was present.

Q. After that were you on the stand as a witness?

A. Yes, sir. I do not remember what time; but since my attention has been called to it I remember the resolution.

By the CHAIRMAN:

Q. Was that resolution adopted in your presence?

A. I think it was. I feel sure that it was.

By Mr. LOGAN:

Q. Do you know the reason or cause for the introduction of this resolution before the committee?

A. Yes, sir.

Q. Did you hear anything of that?

A. Yes, sir; I did. It had escaped my mind, but I remember it now. I remember a conversation with Senator Whitney, who was a member of the committee, and with others, in which it was stated that Mr. Snoddy was running the whole thing, and it was being turned into an investigation of Mr. Clarke and Mr. Pomeroy, and conversation to that effect. And Mr. Whitney went in and, I think the record will show, although I have not seen it for a long time to particularly call my attention to it, offered the resolution.

By Mr. CARPENTER:

Q. Did you suggest the resolution?

A. No, sir. But what I am saying was common talk.

Q. I simply asked you if you suggested it?

A. No, sir.

By the CHAIRMAN:

Q. How many members of the committee were there?

A. My recollection is that there were three from the senate and five from the house.

Q. A joint committee?

A. Yes, sir.

Q. This resolution was adopted after the examination had proceeded at some length?

A. Yes, sir; I think so. After I had been examined at one sitting at least.

Q. Do you state it was intended to correct this abuse?

A. I think it was the purpose; but that it did not have any such effect.

By Mr. CROZIER:

Q. Were not the gentlemen who composed that committee unfriendly to Mr. Caldwell, the whole of them?

A. O, I think not.

A. A A.

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Q. Did not they make a unanimous report against Mr. Caldwell?

A. I think they did.

By Mr. CARPENTER:

Q. Had any of them been in the legislature that voted for Mr. Caldwell?

A. I could not state this unless you will allow me to refer to the names.

Q. Of course you can look at the names. There is nothing confidential about these printed papers.

A. (After examining the report of the Kansas legislative committee.) I think none of them were.

Q. None of them had voted for Mr. Caldwell? Were any of them in the legislature that elected Mr. Caldwell?

A. I think Mr. Snoddy and Mr. Stover and Mr. Whitney were. My recollection is they were members of that legislature.

Q. Did any of them vote for Mr. Caldwell?

A. I think not.

By Mr. CROZIER:

Q. Was not the Speaker of the House, who appointed the committee, very unfriendly to Mr. Caldwell?

A. No, sir.

Q. Who was he?

A. Hon. Stephen A. Cobb, now member-elect to the House of Representatives from Kansas.

Q. Was not he an enemy of Mr. Caldwell?

A. I think not. I know Mr. Cobb very intimately, and I never so understood it.

By Mr. CARPENTER:

Q. Do you want to make any statement in addition to what you have stated?

A. Nothing occurs to me now.

WASHINGTON, *Tuesday, January 21, 1873.*

EDWIN C. MANNING sworn and examined.

By the CHAIRMAN:

Question. Where do you reside?

Answer. At Winfield, Cowley County, Kansas.

Q. Were you in the legislature that elected Mr. Caldwell to the Senate?

A. I was, sir.

Q. From that county?

A. Yes, sir.

Q. Which house?

A. The lower house.

Q. State what you know, if anything, in regard to the use of money or other corrupt means to procure the election of Mr. Caldwell to the Senate, either by Mr. Caldwell or any of his friends.

A. I do not know of the use of any.

Q. Do you know of any money being offered?

A. I do not, sir.

Q. Did anybody offer you any money to vote for Mr. Caldwell?

A. No one offered me any money to vote for Mr. Caldwell.

Q. Was there anything else offered to you?

A. No, sir.

Q. Any offer to lift a note of yours?

A. I want to answer that by saying——

By Mr. HILL:

Q. Was there any accommodation sought by you or offered to you in the way of a loan of money?

By Mr. TRUMBULL:

Q. Or any inducement? The witness knows what we want.

A. No, sir; no inducement.

By the CHAIRMAN:

Q. What about that note, Mr. Manning?

A. I had a note in bank, that had been there in the Topeka Bank some months overdue, that I was very anxious always to pay up. A gentleman came to me and told me that he believed I could get that note lifted if I would vote for Mr. Caldwell.

Q. Who was that man?

A. Colonel G. W. Veal.

Q. Who was he? Was he a member of the legislature?

A. He was.

Q. From what county?

A. From Shawnee County.

Q. What took place then?

A. I told him I would not entertain his proposition a moment, and that I had never voted for any one for money and that I never would. I testified, however, and I want to explain it, before the Kansas investigating committee, that I was offered; I think those were my words. On talking with Colonel Veal about it he called to my mind that he did not offer it, but suggested that if I wanted to lift it in that way I could do it he thought. He did not say he was authorized to make the statement.

Q. Your recollection when you testified was that he had offered you?

A. That was the impression on my mind.

Q. But Colonel Veal afterward told you he did not mean that?

A. Yes, sir; that he did not say it; and he repeated the words of the conversation, and I saw that it was not an offer.

Q. You saw that, then?

A. Yes, sir.

Q. What did he tell you?

A. He said "If you conclude to accept the proposition to call on Tom Anderson." That is what he told me.

Q. To call on Tom Anderson if you accepted it?

A. Yes, sir; or words to that effect.

Q. Did he urge you to accept it?

A. He was my indorser, and he was a little anxious that I should get the note out.

By Mr. CARPENTER:

Q. Indorser on that note?

A. Yes, sir; and he was anxious I should get the note out. He cared more about the note than my character.

By the CHAIRMAN:

Q. Did you have any conversation with Mr. Anderson?

A. I never did, sir.

Q. Was any arrangement made to lift the note?

A. No, sir.

Q. Was any money loaned to you?

A. No, sir; not a dollar. I paid my own hotel bills.

Q. Do you know of any offer being made to any other member of the legislature?

A. I do not, sir.

Q. Did you ever hear any member speak of an offer being made to him?

A. I do not remember that I ever did.

Q. Did you have any conversation with Mr. Len. T. Smith?

A. No, sir.

Q. On the subject of how you were to vote?

A. No, sir.

Q. At no time?

A. At no time.

Q. Did you with Governor Carney?

A. I did.

Q. What was that conversation?

A. Governor Carney was solicitous that I should vote for Mr. Caldwell.

Q. What did he tell you; what argument did he use to you?

A. No argument at all except that he would be elected.

Q. Did you offer then to go for Mr. Caldwell if you could procure a loan and take up that note?

A. No, sir; I did not.

Q. Nothing of the kind?

A. No, sir.

Q. Did you say anything to Governor Carney about the existence of this note?

A. I did.

Q. What?

A. I asked him to assist me in making a loan on one or two years time, at 10 or 12 per cent. interest instead of 18 per cent., as the note was drawing, and payable every ninety days, making it compound interest, which was too big a note for me to carry.

By Mr. HILL:

Q. For what amount?

A. Two thousand dollars.

By the CHAIRMAN:

Q. What did Governor Carney say to that; did he decline?

A. I think that he said that he could assist me in procuring a loan at that rate.

Q. Did he say he could or would?

A. That he could; I think he said he could.

Q. Did he mention any place where or any manner how you could get that money?

A. I think he said that he could get it from Mr. Caldwell, but I am not positive of that.

Q. You think he said that he could get it from Mr. Caldwell?

A. Yes, sir; he thought that he could get it from him.

Q. What did you say in response to that?

A. I do not know that I made any response at all.

Q. Did he tell you to speak to Mr. Caldwell about it?

A. No, sir.

Q. Did he tell you that he would speak to Mr. Caldwell for you?

A. I think he did.

Q. Did you assent or dissent from that?

A. I did not dissent.

Q. Then, did you give him your permission to speak to Mr. Caldwell?

A. I presume I did by silence. I do not know that I did by any reply.

Q. Did you understand that he had your permission or desire that he should approach Mr. Caldwell on the subject of advancing you money?

A. Yes, sir; I think I did.

Q. That was in the same conversation in which he had urged you to vote for Mr. Caldwell?

A. No, sir. When Governor Carney withdrew from the senatorial race, he urged me, whenever he met me, and I persistently refused, to vote for Mr. Caldwell.

Q. Did you vote for Mr. Caldwell?

A. Not the first time.

Q. Did you in joint convention?

A. I did, at the suggestion of Mr. Clarke and his friends, we agreeing in caucus to go for Mr. Caldwell in a body.

Q. When was this conversation in which Governor Carney spoke about seeing Mr. Caldwell in reference to the \$1,800 with your permission? How long before the joint convention?

A. I think it was the evening after the first vote, at which what was called the Clarke caucus was held.

Q. The evening before the joint convention?

A. I think it was the evening before the joint convention or the morning of the joint convention.

Q. That was the time that understanding was had between you and Governor Carney?

A. Yes, sir.

Q. And then you voted for Mr. Caldwell on that day?

A. Yes, sir.

Q. Did you see Governor Carney afterward, to know whether he had seen Mr. Caldwell?

A. No, sir.

Q. Did you ever have any interview with Governor Carney on that subject?

A. I think not.

Q. Did you have an interview with him after the election was over, in which you told him that Mr. Caldwell had not complied with the understanding to advance you the money?

A. I think not.

Q. Did you write to him on that subject?

A. I do not think I did.

Q. You think you never wrote to Governor Carney on that subject?

A. I think not. Mr. Veal, who was my indorser, with Mr. Graham, proposed to indorse for me for any amount I might borrow to lift that note. They being both indorsers on the bank-note, and seeing the improbability of my raising it, proposed to indorse for a note for that amount to any one from whom I should borrow the money. I tried to borrow it from several parties. Mr. Veal tried to borrow it more than I did. He talked, I believe, to Governor Carney about it. That is the way I first learned that he was not successful in getting any money.

Q. You think, then, it was in the evening before or the morning of

the joint convention that this conversation took place about Governor Carney seeing Mr. Caldwell in regard to the money?

A. At first, yes, sir. I think it was first spoken of at that time.

Q. And you had voted against Mr. Caldwell in the house?

A. Yes, sir.

Q. You think you never wrote to Governor Carney on the subject?

A. I think I never did. I have no recollection of ever having done so.

Q. When you authorized Governor Carney to speak to Mr. Caldwell about lending you this money, you knew that Mr. Caldwell was a candidate?

A. Yes, sir.

Q. Now I will ask you if that carried with it an understanding on your part, or if Governor Carney understood, that if that arrangement was made you would vote for Mr. Caldwell?

A. No, sir; not at all.

Q. But you did vote for him?

A. Yes, sir; I have not stated before why I voted for him, and perhaps, in justice to myself, I ought to.

Q. Go on, sir.

A. The night after the first vote was taken all of Mr. Clarke's friends, men who had voted for him on the first day of the election, were invited to meet in a room in caucus, to decide upon what course they should pursue. At that meeting no definite conclusion was arrived at as to what course they should pursue. Many suggestions were made, and myself, among the rest, suggested, and I named Judge Morton, of the bench or district court in our State, as the man who I wanted the representatives to cast their votes for; and we named five, and sent those names to an anti-Clarke caucus, to suggest to them that they should unite with us in electing one of those names.

By Mr. CARPENTER:

Q. Was that before or after this talk with Governor Carney about the loan?

A. It was after, if the conversation was in the evening at all, for I did not see Governor Carney again that night at all, for we remained in caucus until 2 o'clock. I cannot say whether it was in the evening, just as we went into caucus, or in the morning just before we went into the other caucus—the Clarke caucus. We remained in caucus some time; but the sentiment was, having failed to obtain from the anti-Clarke men, who were in another caucus, any concession, that we should take a new man. We then began, at the suggestion of some persons present, to drift toward proposing to cast our votes solid for Mr. Caldwell. We adjourned with the agreement, and at the suggestion of Mr. Clarke, and, I think, to meet him at his room at 8 o'clock the next morning, to decide on our course. At 8 o'clock we met at Mr. Clarke's room. I think there were twenty-one or twenty-three of the twenty-five, one or two having dropped out. I was one of those who met there; and Mr. Caldwell came in, and Mr. Clarke suggested that he make any statement he pleased; that his friends were proposing to vote for him. Mr. Caldwell said he should consider them his friends as though they had been originally for him; and Mr. Clarke said that would be the better course to preserve his friends in the State and overthrow the opposition; and they all voted unanimously for the proposition, and went into the joint convention and voted for him.

By the CHAIRMAN:

Q. You say that caucus was at 8 o'clock on the morning of the joint convention?

A. Yes, sir.

Q. How long did that caucus remain in session?

A. Not more than an hour, and not less than half an hour.

Q. Was it before that caucus you had this conversation with Governor Carney, or afterward?

A. I did not see Governor Carney that morning before the 8 o'clock caucus.

By Mr. CARPENTER:

Q. Did you see him after the 8 o'clock caucus, before the meeting of the legislature?

A. No, sir.

Q. Then it must have been before that?

A. I saw him, that day some time, probably; I must have seen him before the first Clarke caucus.

By the CHAIRMAN:

Q. The first or 8 o'clock caucus?

A. Before the first Clarke caucus at night.

Q. Then the interview took place between you and Governor Carney on the evening after the first vote had been had, and before the joint convention?

A. Yes, sir; I think now it was, since I trace it.

Q. Did any other persons offer you any money to vote for them? Did you have any conversation with Mr. Clarke upon the subject?

A. I do not wish any disrespect, but I would rather the question would not be put in that way, if I have any suggestion in the matter, because no one did offer me any money.

Q. Did you apply to Mr. Clarke about that time, or before that time, for a loan of \$1,000?

A. I did, sir. Will you allow me to explain that?

Q. Yes, sir.

A. Colonel Veal had offered to take a house and lot in Manhattan for \$800 of the note if I could borrow a thousand more, and he would go my security for the thousand. I assented, of course, to that proposition, that I should borrow a thousand dollars wherever I could at low interest, and turn him out my house and lot in payment of that \$1,800 note drawing 1½ per cent. per month. Mr. Clarke and myself had been friends a long time, and I applied to him.

Q. Was that during the progress of this canvass at Topeka?

A. Yes, sir.

Q. How many days before the first vote?

A. Several days; I do not know.

Q. When you applied to Mr. Clarke for the loan of this thousand dollars, he was a candidate?

A. Yes, sir.

Q. Is Mr. Clarke regarded as a wealthy man?

A. I believe not.

Q. How did you suppose he had a thousand dollars to loan?

A. I had several reasons for supposing that.

Q. What were those reasons?

A. One of those reasons was that he told me he had money there to procure his election.

Q. That he had money there to procure his election? Was that in the same conversation in which you applied to him for the \$1,000, or before?

A. I could not answer that; I was very often with him.

Q. Was it in consequence of his telling you that he had money there to procure his election, that you proposed to borrow \$1,000 of that money?

A. It was in consequence of my supposition that he had money at his disposal, sir.

Q. In proposing to borrow \$1,000 of that money of Mr. Clarke, was it connected with the idea of your voting for him, or was it a *bona-fide* loan you were to return?

A. A *bona-fide* loan I was to return. I ran as a Clarke man, and made my speeches as a Clarke man, and told them all I should vote for Mr. Clarke. Every man expected I should vote for Mr. Clarke.

Q. When you applied for a loan of \$1,000 of the money he had there to procure his election, did you think he had that amount of money to loan not connected with the object for which he had it there?

A. I knew if he was disposed to let me have \$1,000, he could do it.

Q. If you had no hesitation in borrowing \$1,000 of one candidate for the Senate, would you have had any hesitation in borrowing \$1,800 of another?

A. I had no hesitation in borrowing wherever I could, giving good indorsers.

By Mr. CARPENTER :

Q. Were these indorsers perfectly responsible?

A. Yes, sir.

Q. What became of the note?

A. It has not been paid; it is standing to-day, and my wife mortgaged her property for it, to secure its payment.

Q. You never received any money from any of these gentlemen?

A. No, sir.

By the CHAIRMAN :

Q. When Colonel Veal first approached you on the subject of your getting this money of Mr. Caldwell, did he become excited because you did not accept his proposition, and agree to see Tom Anderson?

A. Well, I do not know; there might have been some sharp words between us. I do not remember now what was said.

Q. Did he tell you that you were a fool for not taking the proposition?

A. I think he said I was foolish, or something like that.

Q. For not accepting?

A. Yes, sir.

Q. Now, if you were in such straits for this money that you were willing to borrow it of anybody, when Governor Carney had agreed to see Mr. Caldwell in your behalf and get the money for you, how did it come that you never inquired of anybody whether he had succeeded in getting the loan, or could get the loan of Mr. Caldwell?

A. Colonel Veal told me—he was more solicitous than I was—that the money should be obtained at lower rates and longer time. He told me that Governor Carney had told him that he could not get the money. From the time I told Governor Carney I wanted the money, and he suggested Mr. Caldwell, until after the election of Mr. Caldwell, I never had an interview with him nor heard through any other person from him.

Q. In view of what had been told you by Colonel Veal, and what

Governor Carney said, that he thought this money could be obtained of Mr. Caldwell, and you consenting that he should see Mr. Caldwell in order to get the money, did you not then have the understanding that you were to have the money, and did you not act with that understanding?

A. No, sir; by no means.

Q. Had you any doubt that you could get it, in view of what Colonel Veal and Governor Carney said?

A. I had. I did not place the utmost confidence in candidates for the United States Senate in that country.

Q. How did Colonel Veal come to tell you afterward that Governor Carney said he could not get the money? When did Veal tell you that?

A. I cannot tell; a few days afterward, or perhaps the same day.

Q. How did Veal know?

A. He had seen Governor Carney.

Q. Had you authorized him to see Governor Carney?

A. I had authorized him to procure me the loan wherever he could, and I was solicitous that it should be obtained.

Q. How did Colonel Veal come to speak to Governor Carney about this after the election unless he knew you had seen Governor Carney?

A. I think I told Colonel Veal at the time I had the conversation with Governor Carney that I expected to get it there.

Q. Then you did expect to get it from Mr. Caldwell?

A. Yes, sir.

Q. And you told him that before the vote in the joint convention?

A. Yes, sir. I do not think I conferred with any one between this time.

Q. Then it stands in this way: You told Veal on the morning of the joint convention, and before it, that you had had the conversation with Carney and expected to get the money of Mr. Caldwell?

A. I think I told him the evening I spoke to Governor Carney.

Q. Then the matter rested in that way; did you then ask Veal afterward to see Governor Carney about it?

A. I do not think I did. I think he came to me and told me he had been to see Governor Carney about it.

Q. And told you that Governor Carney said he could not get the money?

A. No; I do not think he made that answer.

Q. What was it he told you?

A. That he could not get it then; but probably would.

Q. When were you to get it; when could you get it, if you could not get it then?

A. At some other time, I suppose.

Q. Was there a time fixed?

A. No, sir.

Q. Was the promise still held out to you that you should have it at some time?

A. I think he left that impression on my mind.

Q. That you could not get it then, but you were to have it at some time?

A. Yes, sir.

Q. Did you then call upon Mr. Caldwell, either personally or through anybody else, after that time to carry out this understanding?

A. I think not, sir.

Q. Did you never speak to Governor Carney about it afterward?

A. I think not.

Q. Was not Colonel Veal solicitous about it? He was the indorser?

A. Yes, sir.

Q. Did he see Governor Carney or Mr. Caldwell?

A. Colonel Veal at the same time had two other places from which he expected to get the money; there was a man named Richmond and a man named Lacosta that built the opera-house in Topeka. He had said, "from some of these sources we can get it on longer time and lower interest." Subsequent to that, after the legislature or during the session, he made out a note for \$2,000, payable to his order, and indorsed it, and was going to Leavenworth to present it to the bank of Scott & Co., and I think the note was to be indorsed—no, it was made payable to Governor Carney or Alexander Caldwell; I did not see the note. He took it to Leavenworth, and the bank refused to give him the money on the note. His name and mine, I believe, were on the note.

Q. How long after the election did Colonel Veal prepare this note?

A. I cannot say. I think it was some time during the legislature or about the time we adjourned.

Q. It was made payable to Governor Carney or Mr. Caldwell, you do not know which?

A. Yes, sir; I do not know which.

Q. But one of the two?

A. Yes, sir.

Q. The attempt was——

A. We had failed to get it from Richmond and Lacosta right there in town, and that was our last resort.

Q. If it was made payable to Governor Carney or Mr. Caldwell, he would have taken it to them to get their indorsement on it before he took it to the bank, would he not?

A. Well, Colonel Veal's paper is good anywhere in the State.

Q. But if this note was payable to Governor Carney and Mr. Caldwell, how could it be used in bank without their indorsement?

A. Perhaps I am wrong as to the form in which it was drawn. I did not see the note.

By Mr. CARPENTER:

Q. You signed it, did you not?

A. I think I signed the note.

Q. Then you saw it?

A. I saw it.

By the CHAIRMAN:

Q. I will ask the direct question, if you do not know that after that note was prepared in this way, payable to one or the other of those two gentlemen, it was presented to them for their indorsement that it might be used in bank, and that their indorsement could not be procured?

A. I do not know that it was.

Q. Was the note presented to Scott & Co.?

A. Yes, sir.

Q. What would be the sense in presenting it to Scott & Co., without the indorsement of the man to whom it was payable?

A. It might not have been payable to them.

Q. You said it was.

A. I thought it was.

Q. Then to whom was it payable?

A. I cannot answer the question. I know Colonel Veal and I were held responsible on the note, and expected to get it from these parties.

Q. You were held responsible on the original note ?

A. I know I figured all around to get the money, and offered as good paper as there is in that country, at 10 or 12 per cent. That is all I know about it.

By Mr. LOGAN :

Q. You say that this note was prepared by Colonel Veal ?

A. Yes, sir.

Q. Colonel Veal was your indorser on this note you spoke of that was in bank at Topeka ?

A. Yes, sir.

Q. Merely your indorser ?

A. No, sir ; the note was payable to him.

Q. Payable to him, and then he indorsed it over to the bank ?

A. Yes, sir.

Q. How much interest did that note draw ?

A. It had gone up from \$1,500 to somewhere about \$1,800.

Q. What length of time did it run ?

A. It had fallen due three times and been renewed ; ninety days each time.

By Mr. CARPENTER :

Q. What rate of interest did it draw ?

A. One and a half per cent. a month ; 18 per cent.

By Mr. LOGAN :

Q. What do you mean by 18 per cent. ?

A. Per annum.

Q. It was drawn payable in ninety days ?

A. Yes, sir.

Q. Drawn by Veal and payable to whom ?

A. Drawn by me and payable to Veal's order.

Q. And then he indorsed it to the bank ?

A. Yes, sir.

Q. On that the money was procured ?

A. Yes, sir.

Q. And to relieve that note Veal drew up a note for you payable to whom ?

A. I had the impression it was made payable to Governor Carney or Mr. Caldwell at the time.

Q. Payable to them ?

A. I think so.

Q. To one of them, was it not ?

A. Yes, sir.

Q. Was that note signed by Mr. Veal and yourself both ?

A. Yes, sir ; I think so.

Q. And payable to one of those men ?

A. Yes, sir ; I know he and I must have signed it.

Q. At what time was it payable ?

A. I am not certain whether one or two years. It was not less than one year.

Q. At what rate of interest ?

A. Twelve per cent., I think, or perhaps only ten.

Q. Either 10 or 12 ?

A. Yes, sir.

Q. And payable in one or two years ?

A. Yes, sir.

Q. You did not get the money on that note?

A. No, sir.

Q. I ask whether or not at the time this note was in the bank at Topeka with Veal as your indorser to that note you were a responsible man for that amount?

A. Not very.

Q. How did he come to make the note, then, if you were not responsible?

A. He made it in a time when I was.

Q. And you had gotten broke since then?

A. He had lost confidence in my ability to pay it.

Q. But he was willing to indorse another for the same amount, payable in one or two years by you and himself, for the same amount of money drawing 12 per cent.?

A. Yes, sir.

Q. Did he take that note himself?

A. Yes, sir.

Q. And went to Leavenworth to get the money?

A. Yes, sir. He was going there for some other purpose and took that along.

Q. To procure the money?

A. Yes, sir; to lift the other note.

Q. If he had procured that money he would have returned it to you?

A. He would have returned me the old note.

Q. He was, then, transacting business for you?

A. Yes, sir.

Q. Rather taking you under charge?

A. Yes, sir.

Q. This was all in pursuance of a conversation at Topeka in reference to borrowing money and substituting it in place of this note?

A. Yes, sir; of course it was.

By Mr. TRUMBULL:

Q. What did he tell you was the reason he did not get it?

A. He told me Governor Carney and Mr. Caldwell were neither of them there, and Mr. Scott would not take the paper without seeing them.

Q. I asked you whether any inducement was offered you to vote for Mr. Caldwell, and you said no.

A. No, none.

Q. You immediately said Mr. Veal had proposed to you that Mr. Caldwell should let you have this money if you would vote for him. Was not that an inducement to get your vote?

A. No, sir; it was not.

Q. You do not call that an inducement?

A. It was not to me.

Q. You do not understand the word inducement.

The CHAIRMAN. He asked you if an inducement was offered.

By Mr. TRUMBULL:

Q. Not that you took it. You swore in your testimony that no inducement was offered you, and then you admitted that it had been proposed to you to have this note paid if you would vote for Mr. Caldwell, and you swear now that was no inducement?

A. It was not an inducement to me. Those are the facts, however, call it what you please. The first question asked me was whether any money was offered to me, and I spoke positively.

Q. And when I saw the manner of your answer it suggested to me to ask whether any inducement of any kind was offered, and you denied that there was any.

A. Those are the facts.

Q. Now you admit that there was an offer to pay a note of \$1,800 if you would vote for Mr. Caldwell?

A. I do not admit that. Colonel Veal said he believed I could get it done. He did not say he was authorized to make the offer or would make it.

Q. But he believed you could have it done if you would vote for Mr. Caldwell?

A. Yes, sir; that I could have it done.

By Mr. ALCORN:

Q. Did you not state to Colonel Veal subsequently to that transaction that you thought Mr. Caldwell had treated you badly in this matter? Did you not say in a conversation with him upon the subject that you thought you had been treated badly by him, and that he had not complied with his contract?

A. I do not remember any such conversation.

Q. Did you make any such statement to any other person?

A. I do not remember that I did.

Q. You do not remember it?

A. I do not think I did. I did not place much dependence on it. It was no consideration in my mind at the time. I strove as hard in other places to get the money as from him, and Colonel Veal did.

By Mr. CARPENTER:

Q. Did you consider that what had taken place in Topeka in regard to this matter, prior to that vote for Mr. Caldwell, had laid Mr. Caldwell under any obligation whatever to discount that note for you?

A. None whatever. I voted for Mr. Caldwell at the urgent solicitation of Mr. Baker, my partner in business, who had a large interest in Southern Kansas, and Mr. James, who had also a large interest in the same place, and was a personal friend, and Mr. Clarke also; and I thought my vote would have more force to go along with the body of them.

Q. If that caucus had decided to go for any other man would you have gone with them?

A. I should have done so, and more freely than I did for him. My individual choice was for Judge Morton.

Q. And it remained so to the last?

A. Yes, sir. I exercised my individual interest, and he was moved to tears in the matter when I showed him that we could elect him if he would bring his friends together.

By the CHAIRMAN:

Q. When Mr. Veal spoke to you about getting the money to take up this note, and afterwards, when Governor Carney called to see Mr. Caldwell, with your approbation, to make the arrangement for you, did you not know that Mr. Caldwell would have no object or inducement to lend you that money except for your vote? What object could he have in advancing you that money except for your vote? He was a stranger to you, was he not?

A. He was comparatively a stranger.

Q. Did you not know at that time that he would have no object in

lending you that money except for your vote? What other motive do you suppose would operate upon him to advance that money for you?

A. I will tell you. The statement Colonel Veal had made to me had made the impression upon my mind, and it still had at the time of my testimony, in which I said I had been offered so much; and I felt that if that was really the case, if he was willing to give money for my vote, that he certainly would be generous enough to one who would refuse money for his vote to take his note and loan him this amount on good paper. I was willing to take the money from anybody to relieve Colonel Veal from uneasiness and myself from embarrassment.

By Mr. HILL:

Q. Willing to take it as a loan?

A. Yes, sir, and no other way.

By Mr. CARPENTER:

Q. Was there any other understanding or desire on your part, except to effect a *bona-fide* loan?

A. None other in the world.

Q. To be secured by responsible men?

A. Yes, sir; from as good men as could be got. I could have got others, if necessary.

By Mr. HILL:

Q. Have you ever, since your failure to get that money, either by letter or otherwise, in conversation, had anything to say with Governor Carney about it and about your failure to get it? Has anything passed between you in relation to it?

A. I do not remember.

Q. Have you ever had a letter from Mr. Caldwell in your life?

A. Yes, sir; several.

Q. Since this election?

A. I think not. I am pretty certain I never had one since this election.

Q. Have you known Mr. Veal to have one from him since the election?

A. No, sir. We live a long distance apart, and do not often see one another.

By Mr. CROZIER:

Q. Was not the note that Mr. Veal took down to Leavenworth made payable to the order of G. W. Veal?

A. I could not state that positively. I am not clear on that, to whom it was payable. I think if it had been made payable to him, it would have been taken at the bank.

By the CHAIRMAN:

Q. Why?

A. Because he is a banker himself, with good capital. His bank will not loan money as low as that; in Leavenworth they will—10 to 12 per cent. on good paper. In Topeka you cannot get it as low as that.

EDWIN C. MANNING re-appeared at a later hour.

I would like, Mr. Chairman, to correct one thing. A question was put by Senator Trumbull. I was asked if I had been offered any inducement or any money to vote for any candidate. The question was again

repeated in the form of asking me if any inducements were offered me to vote for Mr. Caldwell; and I said no. I wish now to say yes, in conformity with the statement I made in regard to Mr. Veal's statement. I did not like to have my own testimony contradict itself.

By Mr. HILL:

Q. You have stated every inducement, in your testimony, that ever was offered to you?

A. Yes, sir.

Q. You have stated it fully?

A. Yes, sir; except the urgent request of friends.

TUESDAY, *January 21*, 1873.

HENRY FOOTE sworn and examined.

By Mr. CROZIER:

Question. Where do you reside?

Answer. At Leavenworth.

Q. How long have you resided there?

A. Sixteen years.

Q. What is your business?

A. I am engaged in erecting houses for rent.

Q. Do you know Senator Caldwell?

A. Yes, sir.

Q. How long have you known him?

A. Ever since he has been in the State.

Q. Ten or twelve years?

A. Yes, sir.

Q. Do you know Governor Carney?

A. Yes, sir.

Q. How long have you known him?

A. About the same length of time.

Q. Do you know Colonel D. R. Anthony?

A. Yes, sir.

Q. How long have you known him?

A. Ever since 1857.

Q. Were you in Leavenworth in the latter part of the summer and fall of 1870, and the fore part of 1871?

A. I was.

Q. Major Foote, if you know, state very briefly to the committee the facts concerning the bringing out of Mr. Caldwell as a candidate for the Senate. Be as brief as you can, and make it intelligible.

A. We had been desirous for a long time of getting a United States Senator from Leavenworth, and had made various efforts and been unsuccessful. Mr. Caldwell was a man of ability, had been successful in business, was a good republican, and was not connected with any political rings or cliques, and we thought him an unexceptionable man to present for that position.

Q. What do you mean by "we?"

A. Myself and other citizens of the place; that was almost unanimous.

Q. How was it brought about, this candidacy?

A. By my own suggestion and others, in the first place. I was one of the first to move in the matter.

Q. Before you go on, I will ask you who else in the State were understood to be prominent candidates for the Senate.

A. Governor Carney had been talked of, and your own name had been used in connection with the office.

Q. Anybody else? Was Colonel Anthony's name mentioned?

A. It had been occasionally.

Q. Go on now and state all the facts as to the candidacy of Mr. Caldwell—how he was brought out—if you know.

A. The first I knew of it, I was asked to step into Colonel Hunt's office, paymaster United States Army, and signed a paper asking him to become a candidate.

Q. Look at that paper, (submitting a paper given below.) Is that the paper you refer to?

A. It is the paper.

Q. Is your name on it?

A. Yes, sir; my name is here.

Q. Do you know the gentlemen who signed it?

A. I know nearly every one of them.

Q. What class of citizens were they?

A. The best citizens in the town.

Q. What classes did it include?

A. It included all classes; business men, professional men, and all.

Q. What was done with that paper after it was signed?

A. It was presented to Mr. Caldwell.

Q. What then? What did he do with it?

A. I do not know. I saw it published in the paper there.

Q. Did he answer it?

A. Yes; he did.

Q. (Presenting the paper below given.) Look at that paper and see if that is his answer.

A. Yes, sir; that is his answer.

The papers referred to are as follows:

[From the Bulletin, December 10, 1870.]

THE SENATORSHIP.

LEAVENWORTH, *December 7, 1870.*

Hon. ALEXANDER CALDWELL:

SIR: A question is now agitating the mind of the people of this State, which it is wise to consider well and settle early: Who shall take the place of the Hon. E. G. Ross in the United States Senate?

Kansas is young, but has great and growing interests, which need the watchful care of our best minds and truest men. The citizen-settler must have his right to a home in preference to great powers consolidated in corporation. Kansas needs a man to represent her interests politically, that she may always be sure he will be true to these principles she has given so much blood and treasure to maintain.

In looking over the whole field, we are led to believe that the legislature would receive the full indorsement of the people if they should select you for that position. Believing they would act wisely in so

doing, we request that you allow your name to be used for that purpose, assuring you of our hearty support to secure your election.

Hoping to hear from you an early and favorable reply, we are, most respectfully, yours, &c.,

C. B. Brace.
M. Hoffman.
H. Saunders.
J. W. Tibbot.
A. B. Havens.
F. E. Hunt.
Henry Foote.
McCown Hunt.
G. E. Jones,
Paul E. Havens.
F. R. Hunt.
S. E. Watkins.
S. G. Catlin.
William Gordon.
C. S. Smith.
O. H. Viergutz.
R. N. Hershfield.
N. Mitchell.
Lucien Scott.
S. M. Rothschild.
J. L. Abernathy.
R. J. Brown.
F. E. Hunt, jr.
G. Geiger.
W. G. Coffin.
J. B. Davis.
G. M. Woodruff.
L. Chapin.
S. R. Brown.
F. Scott.
W. H. Farrell.
J. H. Farrell.
Wm. Davis.
E. F. Root.
Wm. Sargent.
E. W. Charl.
Chas. M. Salingar.
Jacob Everhardy.
Wm. Higinbotham.
T. E. Mills.
E. T. Carr.
J. E. Walter.
T. L. Johnson.
Simon Abeles.
Joseph Durr.
Thos. Plowman.

M. Howell.
John Higinbotham.
John R. Jones.
H. L. Pennock.
Henry Deckelman.
A. L. Baker.
Sheldon Smith.
F. E. Arnold.
H. W. Gillett.
S. L. North.
Rob't Keith.
Robert Garrett.
Garrett & Rush.
J. Ingersoll.
W. H. Haight.
Arch Cribbs.
Geo. Ummethun.
John C. Grund.
Winfield Scott.
L. Echelberry.
George Kauffmann.
W. Steck.
Phelan & Bro.
Jeremiah Clark.
Martin Reichart.
E. H. Durfee.
H. N. Coffin.
B. Flesher.
O. C. Beeler.
Ed. J. Morgan.
J. H. Crew.
W. Z. Clark.
Arthur Simmons.
Thos. Phelan.
James Wilson.
A. Garrett.
H. L. Newman.
Thos. P. Whelan.
Geo. S. Woodward.
Jno. W. Spratley.
Sam. Phillips.
James B. Kitchen.
M. Lauber.
Rohlfing & Co.
L. B. Wheat.
Levi Wilson.

H. S. Burr.
M. Cohn.
George Einstein.
Charles S. Stettaur.
J. C. Briggs.
O. R. McNary.
D. M. Swan.
T. J. Weed.
M. Smith.
Michael Cogan.
John Foster.
Geo. Dickinson.
Louis Kittlaus.
J. W. Crancer.
G. H. Ludolph.
Peter Taschetta.
H. P. Scott.
H. S. Young.
C. N. Stevens.
C. Tholen.
Th. Egersdorff.
Jas. H. Speer.
G. W. Bryan.
Eli Evans.
B. E. Thompson.
Mich'l Przybylowicz.
P. J. McManus.
Gustave Stahl.
Frank Zipp.
O. Brecklein.
Edw. Fritsche.
Wm. P. Borland.
R. E. Allen.
B. C. Chollar.
B. F. Akers.
A. D. Niemann.
F. Q. Webster.
Joseph Kirmeyer.
L. G. Terry.
H. Sarstedt.
P. G. Lowe.
H. T. Green.
E. M. Mackimer.
A. A. Higinbotham.
Richard Kitchen.
S. A. Couch.

"LEAVENWORTH, *December 10, 1870.*

"To C. B. BRACE, W. G. COFFIN, HENRY DECKELMAN, M. HOFFMAN, and others :

"GENTLEMAN: Your note of the 9th instant, requesting me to become a candidate for the United States Senate, is received.

"I have never sought or held a political office, and do not now seek one.

"I fully appreciate, however, the honor conferred upon me by this mark of your confidence, and do not feel disposed to disregard the wishes of so many citizens of Kansas.

"Therefore, in compliance with your request, and relying upon your hearty support, I consent to the use of my name.

If elected, I pledge myself to devote whatever energy and ability I may possess to the advancement of the principles of the party, and to the promotion of the best interests of the State and nation.

"Very respectfully, your obedient servant,

"A. CALDWELL."

Q. State what the situation was as to the unanimity of the people or otherwise with reference to the candidacy of Mr. Caldwell?

A. It was very unanimous. Everybody that I asked to sign the paper, (I went around and got a good many signatures to it,) signed it with hardly an exception.

Q. Were you at Topeka during the canvass?

A. I was.

Q. What were you doing there?

A. I was using my influence to promote the election of Mr. Caldwell.

Q. What do you know about the use of money, if anything, to procure the election of Mr. Caldwell?

A. I do not know anything about it at all.

Q. What were your relations with Mr. Caldwell's friends there?

A. They were of the most friendly and intimate character.

Q. Did you meet Mr. Len. Smith there?

A. Yes, sir.

Q. Did you meet Mr. McDowell?

A. Yes, sir.

Q. Governor Carney?

A. I did.

Q. What were your relations with them, with reference to what was going on in regard to the election—intimate or otherwise?

A. Intimate.

Q. Did you hear Governor Carney's testimony yesterday?

A. Only a portion of it.

Q. Did you hear that portion of it referring to what he styled "the committee?"

A. No, sir.

Q. Were you here Saturday?

A. No, sir.

Q. Do you know anything about the organization of any committee there?

A. No, sir.

Q. Did you know the building in which Mr. Fenlon's and Mr. Van Doren's rooms were?

A. Yes, sir.

Q. Were you ever in a private room in that building with the friends of Mr. Caldwell?

A. Yes, sir.

Q. How often?

A. A great many times in the day occasionally.

Q. Did you meet these gentlemen there that I named, with others

A. Yes, sir.

Q. Were you in there often?

A. Occasionally I would drop in pretty often.

Q. What, at any time that you were in there and those gentlemen were there, did you hear about the use of money in purchasing votes?

A. I never heard anything about it.

Q. Was there anything, so far as you knew or could judge, concealed from you in reference to the election of Mr. Caldwell, or the efforts made to bring it about?

A. I did not think there was at the time. I was intimate with Mr. Caldwell and all his friends, and did everything I could to aid his election.

Q. How was the election of Mr. Caldwell received by the citizens of Leavenworth?

A. With great enthusiasm.

Q. And the State generally?

A. Yes, sir. At that time I know they were gratified at his election.

Q. Were you present when the legislature went down to Leavenworth?

A. I was.

Q. Was there any considerable crowd there from other parts of the State?

A. The largest crowd we ever had there.

Q. What seemed to be the feeling of the people there representing all parts of the State?

A. There was hilarity and a good time generally, and people seemed gratified at his election. Nobody dissented from it that I know of.

Q. And these were people from different parts of the State?

A. Yes, sir. We had a grand time, and everybody was satisfied with the election, or seemed to be, so far as I knew.

Q. What have been, for say ten years or six years, the relations between Colonel Anthony and Mr. Caldwell and the immediate friends of Mr. Caldwell, in railroad enterprises—friendly or otherwise?

A. They have been unfriendly.

Q. How was that manifested?

A. It has been manifested by writings and sayings; by published articles in his newspaper, the Times; and various other ways.

Q. I will ask you directly if it is not the fact, and notorious in the city and county of Leavenworth and throughout the State, or at least in Leavenworth, that Colonel Anthony has been exceedingly hostile to Mr. Caldwell, and to Mr. Smith especially, for six or seven years?

A. It is.

Q. Has it continued down until now?

A. Yes, sir; it has continued with the utmost virulence.

Q. If it is permitted, I will now ask you what is the character of Colonel Anthony; is he a violent man? I do not mean physically violent, but violent as a talking man and a man of high temper, a troublesome man in the community generally?

A. Yes, sir; he is a man of high temper, very headstrong and determined, and makes a great deal of trouble in the community.

The CHAIRMAN. While I do not object to that question, I submit to the committee the question of law. I think the right way to impeach a

witness is to offer evidence as to his truth and veracity, or to contradict him.

Mr. CROZIER. This is to contradict him. Colonel Anthony said he was friendly to Mr. Caldwell.

The CHAIRMAN. You can then proceed with your question as to friendliness or unfriendliness, but not as to violence.

Mr. CARPENTER. That question about Mr. Anthony is proper enough if you mean to ask if that particular quality of Mr. Anthony has been demonstrated in the controversy between Mr. Anthony and Mr. Caldwell.

Mr. CROZIER. The Senator has stated the very object.

The CHAIRMAN. You may ask whether his deportment toward Mr. Caldwell has been violent.

The WITNESS. I mean to say that Mr. Anthony is a headstrong, determined man. He has his views about public matters in the city where we reside, and they are generally antagonistic to those of the majority of the people; he is a very determined man, and he goes all lengths to carry them out.

By Mr. CARPENTER:

Q. Do you mean to say that has characterized his differences with Mr. Caldwell and Mr. Anthony?

A. Yes, sir; bitter. I think it is of a personal nature, too, but it is mostly on public matters in relation to running railways and public affairs in the city.

Q. Questions of policy in regard to these things?

A. Yes, sir.

Q. About the city making appropriations, &c.; has that been the subject of difference?

A. It has to some extent, although the feeling between them has been of a personal nature.

Q. In addition to those things?

A. Yes, sir.

By Mr. CROZIER:

Q. Has this personal opposition to Mr. Caldwell and Mr. Smith on the part of Mr. Anthony been carried into his official action?

A. I think it has.

Q. What position did he occupy?

A. Colonel Anthony?

Q. Yes.

A. He is mayor of the city.

Q. But heretofore has he been a member of the council?

A. Yes, sir; a member of the city council there; he is a public man, and has run for various offices.

By Mr. CARPENTER:

Q. Is Colonel Anthony mayor now?

A. Yes, sir.

By the CHAIRMAN:

Q. Elected by the people?

A. Yes, sir.

Q. Was that because they regarded him as a very troublesome fellow?

A. Well, sir, it is on account of the colored element more particularly.

By Mr. CARPENTER :

Q. What ?

A. The African element.

Q. They are with Anthony ?

Q. Yes, sir.

By the CHAIRMAN :

Q. How numerous are they ?

A. Out of a vote of 3,000, they poll about 900.

By Mr. LOGAN :

Q. You have still some white votes ?

A. A pretty large majority.

By the CHAIRMAN :

Q. Had he been a member of the city council before ?

A. I believe he had been. He had been mayor before, too.

Q. Was that before the colored people had a right to vote ?

A. Yes, sir.

Q. He was elected by the whites' votes, then ?

A. Yes, sir, during the war.

Q. When he was elected to the city council, was that before the colored people had a right to vote ?

A. I do not remember how that was. I do not remember when he was a member of the council before. I could not say positively that he had been.

By Mr. CROZIER :

Q. Was not Colonel Anthony a candidate last fall for the legislature ?

A. Yes, sir.

Q. Was he elected ?

A. No, sir.

Q. What class of citizens of Leavenworth have been his supporters, the more respectable, or otherwise ?

Mr. CARPENTER. That is objectionable, I think. I was improper myself in asking a question like that. It was more for a joke than otherwise.

The CHAIRMAN. That question ought to be answered after what has been asked.

By Mr. CROZIER :

Q. Go on, major, and state.

A. I must state that it is hardly the respectable portion of the community that voted for Mr. Anthony.

By the CHAIRMAN :

Q. Did he get a majority of the votes ?

A. I hardly think he would have been elected to the office if it had not have been for the enfranchisement of the African population.

Q. Did he get a majority for mayor ?

A. Yes, sir, I suppose he did.

Q. What was his majority ?

A. I do not know.

Q. Was it large or small ?

A. My recollection is that it was small, pretty small, but I cannot speak positively, and ought not to say.

Q. Do you mean to say that a majority of the citizens of Leavenworth are not respectable?

A. A great many——

By Mr. CROZIER :

Q. What do you know, if anything, about Mr. Caldwell being a candidate, or spoken of as such, prior to the time that he was brought out as a candidate for the Senate?

A. Well, his name was occasionally mentioned for the office?

Q. What office?

A. Senator.

Q. For any other office? Did you ever hear him spoken of as a candidate for member of Congress?

A. Yes, sir.

Q. How long before the fall of 1870?

A. Well, it was during the spring and summer; in the summer, I think, before the election took place.

Q. In other preceding years, had you heard him spoken of as a probable candidate?

A. Yes, sir, I did. I heard him occasionally spoken of, as I did of other persons.

Q. What has been Mr. Caldwell's business since he came to Leavenworth?

A. He has been engaged in the freighting business extensively.

Q. Freighting where?

A. Since then he has been engaged in erecting buildings and in building railroads.

Q. When was he engaged in the freighting business?

A. I think it must have been about 1864, '65, '66.

Q. Freighting for whom?

A. I do not know. I was absent most of the time during the war, and did not know Mr. Caldwell until I returned.

Q. Freighting for whom?

A. For the Government.

Q. Was he doing a large business?

A. Yes, sir; understood to be a large business.

By the CHAIRMAN :

Q. Major Foote, you stated that you went to Topeka and were intimate with Mr. Caldwell's friends and their operations there.

A. I did.

Q. Do you think anything was kept back from you there, conducted apart from yourself?

A. I could not tell whether they were or not; I was very intimate.

Q. Were you aware at that time of an arrangement between Mr. Caldwell and Governor Carney, by which he was to pay Governor Carney \$15,000 to withdraw from the canvass?

A. No, sir; I did not know anything about that.

Q. Then, that part of their business had not been confided to you?

A. No, sir.

Q. Had you any reason to suspect it at that time?

A. I knew that every effort in the world was being made to elect Mr. Caldwell, and that Governor Carney was favorable to his election apparently.

Q. Did you know at that time that there was a money consideration to pass between them?

A. No, sir; I did not.

Q. Do you know now why that matter was not confided to you ?

A. I do not.

Q. Did you know that an arrangement was made between Mr. Stevens and the friends of Mr. Clarke and Mr. Caldwell, by which Mr. Caldwell was to pay his expenses ?

A. No, sir; I did not.

Q. Did you know of a check that had been drawn by Mr. Smith and indorsed by Governor Carney for \$7,000 ?

A. I did not. I did not know anything about it at all.

Q. Did you know of a \$10,000 note or draft drawn on and cashed by the Kansas Pacific Railroad Company ?

A. No, sir.

Q. You did not know that at that time ?

A. No, sir; nothing about it at all.

Q. Did you know anything about a \$5,000 check drawn by Dr. Morris upon a banking-house in Leavenworth ?

A. No, sir.

Q. Did you know anything about a \$3,500 note to Mr. Anderson ?

A. No, sir; I did not know anything about any money transaction whatever connected with the senatorial canvass.

Q. Have you any reason now to suppose that they did not confide their money matters to you ?

A. I have no reason.

Q. They did not do it ?

A. They did not.

Q. You know anything about these transactions ?

A. I knew nothing about them at all.

By Mr. CLARKE :

Q. How many names are signed to that paper, inviting Mr. Caldwell to be a candidate ?

A. I do not know.

The CHAIRMAN. The paper goes into the record, and will show for itself.

By the CHAIRMAN :

Q. You spoke about Mr. Anthony being considered a violent man in his opposition ?

A. Yes, sir; he has that reputation.

Q. I will ask you the direct question, if you know what the character of Mr. Anthony is, in the city of Leavenworth, for truth and veracity ?

A. That is a question I wish to be excused from answering.

Q. I ask you the question directly.

A. Well, sir, it is as good as people's ordinarily are.

Q. Now, sir, judging from that general character for truth and veracity, would you believe him under oath in a court of justice ?

A. Well, sir; I should want to.

Q. I did not ask you what you know personally, or what you would do from your personal knowledge of him, but from his personal character for truth and veracity ?

A. Yes, I think I would.

By Mr. LOGAN :

Q. Did you vote for Mr. Anthony ?

A. I did not.

By Mr. CARPENTER:

Q. Is there any difference of feeling, personally, in any way between you and Mr. Anthony?

A. No, sir; we are on friendly terms. I never had any difficulty with Mr. Anthony in my life.

By Mr. CLARKE:

Q. Was there any other paper circulated for signatures asking Mr. Caldwell to be a candidate, than the one produced here?

A. Not that I know of. When I was circulating that, I was run away with and severely injured, and other persons took it out of my hands.

Q. What is the population of Leavenworth?

A. Eighteen thousand or twenty thousand.

Q. Take that list and go over that, and tell us what class of people signed it?

A. They are the best people of Leavenworth, or among the best.

By Mr. HILL:

Q. Are there any democrats among them?

A. They are very much mixed; party lines are not drawn very closely there.

Q. Will you pick them out?

By Mr. CARPENTER:

Q. Take the list and go over it.

A. C. B. Brace, the first on the list, is a hardware merchant of the highest respectability. The next,

Mr. Hoffman, is a liquor merchant in Leavenworth, and a good man.

Mr. Saunders is a dry-goods merchant, and a member of the Presbyterian church.

J. W. Tibbot is an attorney.

A. B. Havens, a real-estate dealer, and a good man.

F. E. Hunt is Colonel Hunt, paymaster in the United States Army, of forty years' standing.

Henry Foote, the witness on the stand.

McCown Hunt is teller in the First National Bank.

G. E. Jones, real estate, and Mr. Howell is his partner.

Mr. Higinbotham is a real-estate operator.

Mr. John R. Jones, ditto.

H. L. Pennock, county treasurer, an old and highly respectable citizen.

F. R. Hunt, the son of Colonel Hunt, the paymaster, is his clerk.

S. E. Walkins, insurance agent.

S. G. Catlin, a dealer in boots and shoes, wholesale.

William Gordon, a grocer.

C. S. Smith I do not know.

O. H. Viergutz is a German.

The CHAIRMAN. State the politics.

The WITNESS. Those are all republicans. Mr. Viergutz is a member of the city council.

R. N. Herschfield is a leading jeweler.

Mr. Mitchell, his partner.

Lucien Scott is the president of the First National Bank.

S. M. Rothschild is a dry-goods dealer.

J. L. Abernathy, a furniture-dealer.

R. J. Brown, dry-goods.

F. E. Hunt, jr., son of Paymaster Hunt.

Mr. CLARKE. Is he there twice?

The WITNESS. No, sir, there are two; one is F. E. Hunt, jr.

G. Geiger is a contractor, building railroads, &c.

W. G. Coffin, a gentleman of wealth and influence.

J. B. Davis, an undertaker.

G. M. Woodruff. I do not know him.

Mr. CALDWELL. A wagon-manufacturer.

The WITNESS. Yes, sir; he is.

L. Chapin, a dealer in wood and coal.

S. R. Brown, justice of the peace.

F. Scott. I do not know him.

W. H. Farrell, a merchant there.

J. H. Farrell, his partner.

William Davis, of the firm of Root & Davis, hardware-merchants.

E. F. Root is his partner.

William Sargent is a builder.

E. W. Charl I do not know.

Charles M. Salingar is a clothing-merchant.

Jacob Everhardy, a butcher.

S. L. North is a miller.

Robert Keith is a furniture-dealer.

Robert Garret is a wholesale grocer.

Garrett & Rush, lumber-merchants.

J. Ingersoll, a lumber-dealer.

W. H. Haight I do not know.

Archibald Cribbs, confectioner.

Mr. CARNEY. Is Mr. Garrett a republican?

The WITNESS. Yes; he has voted the republican ticket.

Mr. CARNEY. I think not, and he is my partner.

The WITNESS. I know he has voted the republican ticket.

George Ummethun; he is a druggist.

Winfield Scott is a minister—a Baptist minister.

L. Eckelberry; he is a dealer in marble.

George Kauffmann is a gunsmith.

W. Steck is his partner.

Phelan & Brothers are grocers.

Mr. LOGAN. I do not want to interfere, but it seems to me this is taking up a good deal of time.

Mr. CARPENTER. I think it is important to know what class of people those signers are, for it makes some difference whether a man keeps a hardware-store or a house of ill fame, but it has gone far enough; I only wanted to see what kind of men they were. Is the general character of the signers to that paper like those you have passed over?

The WITNESS. Yes, sir. Here is one person I would like to call more special attention to, Mr. Przybylowicz; he is the proprietor of the Continental Hotel, one of the largest in the city.

Mr. HILL. He is a publican?

The WITNESS. Yes, sir; and he is a good republican.

TUESDAY, January 21, 1873.

CLAUDIUS B. BRACE sworn and examined.

By Mr. CROZIER:

Question. Where do you live?

I I
I I

I I I
I I I

Answer. In Leavenworth.

Q. How long have you resided there?

A. Since 1857.

Q. In what business are you engaged?

A. I am a hardware-merchant.

Q. Are you the Mr. Brace whose name appears first on this call which has been mentioned?

A. Yes, sir.

Q. Did you hear the examination of Major Foote, immediately preceding yours?

A. Yes, sir.

Q. He was modest in stating anything about himself other than that he was a witness on the stand. Please state for him, to supply part of the answer put to him by Mr. Carpenter in regard to the signers of that call. What kind of a man is he?

Mr. HILL. We are satisfied that he is no exception to the general respectability of the list.

By Mr. CROZIER:

Q. I will ask if the question is allowed, inasmuch as you stated that you heard the testimony of Major Foote. Do you agree with him as to his statement on this subject of Mr. Caldwell's candidacy.

The CHAIRMAN. That question is hardly admissible.

By Mr. CROZIER:

Q. I will confine it to the circumstances under which Mr. Caldwell was brought out as a candidate.

A. I think he stated that correctly, so far as I understood him.

Q. Where were you?

A. At Leavenworth.

Q. During the whole of it?

A. Yes, sir.

Q. What is the character of Mr. Anthony as to being a turbulent man—a getter-up of strife in the community?

A. Well, sir, so far as I know the man, that is his character. He is a turbulent man and a man of strife in our community.

Q. What are his relations, if you know, with Mr. Caldwell and with Mr. Smith, and what were they at the time of this election?

A. Very hostile, as I had reason to suppose.

Q. Had they been for a considerable time before that?

A. Yes, sir.

Q. Have they been since?

A. Yes, sir.

Q. Are they so now?

A. I so understand them to be.

Q. Does the hostility of Colonel Anthony go to the extent that it would prevent you from believing his statements in regard to them under oath?

The CHAIRMAN. That would hardly be proper. A court never admits that question, I believe.

By Mr. CROZIER:

Q. Were you at Topeka during the senatorial canvass?

A. No, sir.

Q. Do you corroborate Major Foote as to the demonstration made at Leavenworth upon the return of Mr. Caldwell?

A. Yes, sir.

Q. Were you in Leavenworth during the senatorial canvass?

A. Yes, sir.

Q. What do you know, if anything, about Colonel Anthony going down there and trying to get up a meeting protesting against the election of Mr. Caldwell?

A. I know he did go down and try to do it.

Q. What was his success?

A. It was a total failure.

Q. How did the meeting finally result?

A. The meeting finally resulted in indorsing Mr. Caldwell most overwhelmingly.

Q. What was the character of that meeting as to numbers?

A. Very large.

Q. What elements of the community were in it? I speak generally; were they respectable?

A. Yes, sir; the very best.

Q. There is a resolution; will you look at it? (submitting a newspaper and calling the attention of the witness to the following extract:) Were these the resolutions adopted by this meeting you speak of?

[From the Leavenworth Bulletin, January 24, 1871.]

"The committee on resolutions then reported, and C. B. Brace read, the following to the meeting; which were adopted by acclamation:

"Whereas the election of a United States Senator for the State of Kansas is now pending before the legislature; and

"Whereas the people of Leavenworth are vitally interested in the result of such election, and are greatly desirous that some one be chosen to that position who is friendly to her material interests, and who will not use his official position to her detriment, and to the building up of rival cities outside of the limits of our State; and

"Whereas our fellow-citizen, Alexander Caldwell, is prominently before the legislature of the State as a candidate for the position of United States Senator: Therefore,

"*Resolved*, That we have the utmost confidence in the ability, integrity, and fitness of Alexander Caldwell for the position to which he aspires.

"*Resolved*, That we, the people of Leavenworth, feel an especial interest in his success by reason of his identity of interest with us and friendliness to our prosperity.

"*Resolved*, That our senators and representatives are hereby instructed to vote as a unit for Mr. Caldwell, and to use every honorable means to secure his election, and are notified that we, the people, will hold them to strict account of their trust.

"*Resolved*, That the legislature be memorialized to consider favorably the claims of our city, that one of her citizens be now chosen to the United States senatorship.

"*Resolved*, That D. R. Anthony is not an exponent of our feelings, nor representative of our interests, and we respectfully ask the legislature not to consider him as such, and we now beg leave to inform the legislature that all reports of so-called 'enthusiastic meetings' in Leavenworth in opposition to Mr. Caldwell are bogus and false.

"*Resolved*, That these resolutions be published in the city papers, and that a copy be forwarded to each of the members of the legislature.

"C. B. BRACE,

"Chairman Committee."

A. They were, sir.

Q. You say the meeting was a very large one?

A. Yes, sir.

Q. Was there any dissent from the resolutions?

A. I do not remember that there was.

Q. Was the meeting held in the hall at which Colonel Anthony's meeting was called?

A. Yes, sir.

Q. Did he undertake to hold a meeting at the same time?

A. Yes, sir.

Q. Where?

A. At the same place.

Q. After the enemies of Colonel Anthony got possession of the hall did he undertake to hold a meeting?

A. Yes, sir.

Q. Where?

A. Outside.

Q. How was that in point of numbers?

A. Very few. He asked all his friends to withdraw at the time, and the number that went out was very small.

Q. Can you tell how many?

A. I could not tell exactly, but I should not think there were seventy-five.

By Mr. CARPENTER:

Q. How many do you judge there were in the other meeting?

A. Well, sir, I should judge there were six or seven hundred.

By Mr. HILL:

Q. I perceive by your signature here, C. B. Brace, to this petition or letter, that you did not write this letter to Mr. Caldwell yourself.

A. I did not.

Q. Do you know who did?

A. I do not.

Q. Are you familiar with the handwriting?

A. No, sir.

Q. Do you think you ever saw it before?

A. I think I saw the handwriting before, when it was presented to me.

Q. Do you think you ever saw the person's writing who wrote that, judging from inspection?

A. I could not say that I did from inspection. I do not know.

Q. Are you familiar with the handwriting of many of the prominent citizens of Leavenworth?

A. I am of some, where I have come in business contact with them.

Q. You do not recognize this?

A. I do not.

Q. The reason I ask is, I did not recognize the handwriting by comparing it with the handwriting of any signature here. Do you know who did write it?

A. I do not.

Q. Who presented it to you?

A. Mr. Legate presented it to me.

Q. When was Colonel Anthony elected mayor of Leavenworth?

A. Do you mean the first or last time?

Q. The last election.

A. It was last spring, about a year ago.

Q. When was he elected before?

A. I do not remember the year; it was during the war.

Q. Has he been a member of the city council since then?

A. He has, I believe.

Q. How often?

A. Well, he has certainly been once, and I do not know but more times.

Q. Have you been among those opposed to Mr. Anthony?

A. Yes, sir; I opposed Mr. Anthony.

Q. By what majority was he elected the last time?

A. I cannot remember the number, but it was quite small—quite a close election.

The CHAIRMAN, (to Mr. Anthony.) Do you wish to suggest any question touching yourself, Colonel Anthony?

By Mr. ANTHONY, of Leavenworth:

Q. I will ask if you have known any personal trouble between Mr. Caldwell, Mr. Smith, and myself—anything of a personal nature?

A. Does that mean a personal controversy?

By the CHAIRMAN:

Q. A personal matter outside from public questions.

A. I have never been present when there was any personal controversy between them.

Q. Have they been friendly personally; on speaking terms?

A. They may have been on speaking terms.

Q. Did Mr. Caldwell go to his office since he got control of the Times?

A. Not that I am aware of.

TUESDAY, *January 21, 1873.*

Rev. J. G. REASER sworn and examined.

By Mr. CROZIER:

Question. Where do you reside?

Answer. In Leavenworth.

Q. How long have you resided there?

A. Since 1859.

Q. Do you know Mr. Caldwell?

A. I do.

Q. Were you in Leavenworth during the fall of 1870, and the winter of 1871?

A. Yes, sir.

Q. Did you hear Major Foote's testimony?

A. I did.

Q. Did you hear that part of his testimony as to bringing out Mr. Caldwell as a candidate, and the circumstances attending it; and, if so, can you corroborate the statement he made?

A. I understood it the same way, sir.

Q. Do you corroborate the statement he made?

A. Yes, sir.

Q. As to the notorious hostility of Mr. Anthony to Mr. Caldwell and Mr. Smith, can you corroborate the testimony of Major Foote?

A. I can, sir, with some modifications.

Q. Please state what they are.

A. I understood that Colonel Anthony was very bitterly opposed to Mr. Caldwell as a candidate for the Senate. Colonel Anthony told me at one time after the election, that now it was over, he should cease his opposition; afterward, from some cause, however, it seems to have been resumed again. As to his relations with Mr. Smith I am not advised; I do not know.

Q. Now, as to Colonel Anthony's character as a peaceable or turbulent man in the community?

Mr. CARPENTER. That question is not proper in any form. The only point of view in which it can be material is this: Whether his opposition to Mr. Caldwell and Mr. Smith is a mere difference of opinion about matters of public policy, or whether Mr. Anthony has gone into it with violence and vituperation. Do not put the question as to his general character for stirring up strife.

By Mr. CROZIER:

Q. Answer the question in the light of that remark by Mr. Carpenter.

A. My knowledge of Colonel Anthony is, that he is disposed to be quite positive in everything he undertakes, and when he opposes a person or a measure the tendency is to bitterness.

By Mr. CARPENTER:

Q. Do you mean to say that is what you understood to be the nature and character of his opposition to Mr. Caldwell?

A. From my standpoint, I so regarded it.

By Mr. CROZIER:

Q. Was Colonel Anthony's personal hostility to Mr. Caldwell dictated by public considerations alone, or personal ones?

A. I do not know, sir.

By the CHAIRMAN:

Q. When Mr. Anthony told you he was opposed to the election of Mr. Caldwell originally, did he give you any reasons why he opposed Mr. Caldwell's election?

A. If he did, sir, I do not have any distinct recollection of them. I think, however, that he made some statement of this character—that he did not believe in the election of any one who was engaged in railroad rings and enterprises of that sort. I think that is, perhaps, the substance of what he said.

Q. I ask if, in his opposition to Mr. Caldwell that you speak of, it was put in his paper, or in his conversation, upon the ground that Mr. Caldwell did belong to railroad rings, and was a speculator?

A. You ask, did I understand from him that he thought so?

Q. In his public opposition, was that put upon that ground, that Mr. Caldwell was in a railroad ring?

A. There were such charges made in the paper, I believe.

Q. Did you understand that his hostility grew out of any other cause? Had you any knowledge of any other ground of his opposition?

A. Personally I had not. I had reasons to believe that he was personally hostile. I had no personal knowledge of it from himself.

Q. Did you have any reason to believe that his personal hostility, or any other kind of hostility, grew out of anything else than his natural bitterness and his opposition to Mr. Caldwell as a railroad man and operator?

A. I knew of nothing else personally.

WASHINGTON, D. C., *Tuesday, January 21, 1873.*

GEORGE S. SMITH sworn and examined.

By Mr. CROZIER :

Question. Where do you reside ?

Answer. At Leavenworth, Kansas.

Q. Where did you reside in the winter of 1870-'71 ?

A. At Leavenworth.

Q. What was your business ?

A. In 1871 I was a salesman.

Q. In what establishment ?

A. In the wholesale house of Stattauer & Einstein.

Q. What, in the winter of 1871 ?

A. That is the time I refer to.

Q. I refer particularly to the time of the senatorial election.

A. That was my business in 1871.

Q. What is your business now ?

A. I am treasurer of Leavenworth County.

Q. Were you at Topeka during the senatorial election resulting in the election of Mr. Caldwell ?

A. Yes, sir.

Q. In whose interest were you operating, or acting, if acting at all ?

A. Well, sir, at the earnest solicitation of the business men of Leavenworth, I went to Topeka in the interest of Mr. Caldwell.

Q. Did you take an active part there ?

A. I did, sir.

Q. What do you know, if anything, about a committee of Mr. Caldwell's friends having been appointed by anybody ?

A. I do not know anything about it.

Q. Did you hear the testimony given here yesterday concerning certain rooms in a building where the Leavenworth delegation had rooms ?

A. I did.

Q. Do you know whether there was a rendezvous of friends of Mr. Caldwell in that building ?

A. I do not.

Q. The building occupied by Mr. Fenlon and Mr. Van Doren ?

A. I do not. I was frequently in Mr. Fenlon's room. He is a Leavenworth man, and I went in there as into any friend's room.

Q. Were you in any other room there except that ?

A. I think not.

Q. Do you know William Spriggs ?

A. I do.

Q. Did you ever say to William Spriggs that you had spent \$20,000 of your own money in the election of Mr. Caldwell ?

A. I never did in the world.

Q. Did you make an arrangement with a certain Mr. Hammond in relation to securing the vote of Mr. Snead ?

A. I did not, sir.

Q. Did you make any arrangement with a man named Butler, from Coffee County, in reference to his vote ?

A. I did not, sir.

Q. Did the house you represent, or was connected with, have a note of his for \$850, or any other sum of dollars ?

A. Never in the world, sir.

Q. Did you say to Mr. Spriggs that you had arranged for the vote of

Mr. Butler by surrendering a note of \$850 held by your house on Butler?

A. I never did. I never saw his note in the world.

Q. Did you ever say that?

A. I never did.

Q. Did you tell Mr. Hammond that if he needed any money in the canvass to call on Mr. Simcock?

A. I never did.

Q. Who was Mr. Simcock?

A. Mr. Simcock is an old friend of mine.

Q. Where does he reside?

A. At Council Grove, Morris County. I have known him a good many years. His family and mine visit each other, sir.

Q. Were you authorized by Mr. Caldwell, directly or indirectly, to agree to pay or offer money for any votes for Mr. Caldwell?

A. Never, in the world.

Q. Did you have any conversation with Mr. Caldwell about any money to be paid for votes.

A. Never, in the world. I never met Mr. Caldwell there in Topeka, except when I would take gentlemen in, acquaintances of mine, to introduce them to him.

Q. Did you say to Mr. Spriggs in the Fifth Avenue Hotel, at any time during that canvass, that you had arranged for the vote of a gentleman named Wilson?

A. No, sir.

Q. Did you know a man named Wilson?

A. I knew several Wilsons; Levi Wilson was one.

Q. I mean Wilson, a member of the legislature. You say you never did in the case of any Wilson?

A. I never did.

Q. Were you authorized by Mr. Caldwell, or any of his friends, whom you knew to be his active friends—Mr Len. Smith or anybody else—to bargain for votes, or promise money for votes, or pay money for votes, for Mr. Caldwell?

A. No, sir, not in the least; no more than any of these gentlemen here, sir.

Q. Were you at all?

A. No, sir; unqualifiedly no.

By the CHAIRMAN:

Q. Where do you reside?

A. In Leavenworth.

Q. You say you went up to that election at the instance of some of the business men of Leavenworth?

A. Yes, sir.

Q. Who?

A. Mr. Brace and John Wilson, and Reverend Mr. Reaser, and a good many other persons.

Q. A great many?

A. Yes, sir. I had traveled the State for many years, and knew almost every man in the State.

Q. Were your expenses paid?

A. No, sir. I paid my own expenses at that time.

Q. Have they since been paid?

A. About eight or nine months afterward my expenses at the hotel were paid.

Q. By whom ?

A. By Senator Caldwell.

Q. Was that by virtue of any previous arrangement ?

A. No, sir.

Q. What were your expenses at the time ?

A. I can show you, sir. (The witness here produced and examined a memorandum-book.)

Q. State the amount.

A. Two hundred dollars and seventy-five cents, paid September 2, 1872, by Senator Caldwell.

By Mr. CARPENTER :

Q. How long were you up there ?

A. I do not remember. I guess a couple of weeks.

By the CHAIRMAN :

Q. What were your hotel-bills ?

A. That was my hotel-bill.

Q. Was that your hotel-bill for two weeks ?

A. Two weeks or more. I do not remember.

Q. They charged you \$200 at Topeka for two weeks' board at a hotel, did they ?

A. Yes, sir ; they charged me that as my hotel-bill. I had a great many friends from Leavenworth—different gentlemen—with me, and friends from all parts of the State, who would dine with me.

Q. You say you incurred that expense without any expectation or assurance that you would be paid ?

A. I never spoke to Mr. Caldwell about that subject in my life.

Q. Did anybody else give you any assurance ?

A. No, sir. I went to the Fifth Avenue Hotel, and took my room.

Q. Did you know anything about any arrangement having been made with Governor Carney ?

A. I did not.

Q. Did you know at that time that Governor Carney had been promised \$15,000 on the condition that he would not be a candidate ?

A. I did not. He might have been promised \$15,000. I didn't know it.

Q. You knew nothing of it ?

A. No, sir.

Q. Did you know anything about an arrangement made with Mr. Clarke to pay his expenses in case he withdrew ?

A. No, sir.

Q. You knew nothing of the kind ?

A. No, sir ; only from hearsay.

Q. When was the hearsay ; at that time ?

A. I have heard men say that Mr. Clarke, when he withdrew, was determined to make Mr. Caldwell pay his expenses ; but I don't know whether it was so or not.

Q. Do you know anything in regard to a draft for \$10,000 paid by, and drawn upon, the Kansas Pacific Railroad, at that time ?

A. I do not.

Q. Do you know anything about a \$7,000 check, drawn by Len. T. Smith, and indorsed by Governor Carney ?

A. I do not.

Q. Do you know anything about a \$5,000 draft of Dr. Morris ?

A. I do not.

Q. Do you know anything of any use of money at all, up at that election?

A. I do not.

Q. Did you hear of any?

A. I have since.

Q. Did you at that time?

A. No, sir.

Q. Was that not the general talk there about the hotels and through the crowd, during the time you were there, that money was being used?

A. No, sir; it was not. Since then, from newspaper reports and talk that was made by Tom, Dick, and Harry, it has been.

Q. I am asking you about that matter.

A. No, sir; it was not.

Q. You were not present at any time when the votes of any men were canvassed or any statement made in regard to what they would cost?

A. No, sir. I was at my own hotel, and had my friends there at all times—at all hours of the day and night.

Q. How came it that you took such a deep interest in the election of Mr. Caldwell?

A. Well, sir, I have a great pride in our city—always have had; in fact, so much so that a good many of the citizens say, "George has Leavenworth on the brain." To be plain about it, I have always taken a very active part in her welfare.

Q. It was a matter of city pride?

A. Yes, sir.

Q. How many people were up there from Leavenworth?

A. I don't know; there were a great many; so many that I know several nights we, a great many of us, could not get to sleep at all—could not get to bed.

Q. When Mr. Caldwell paid your expenses, what reason did he give for offering to pay them?

A. He did not give any. I went to him a long time afterward and told him of my expenses, and that I had paid that out of my own pocket; and I said, "If you feel disposed to re-imburse me, I will be glad; if not, I will lose it."

Q. Then you asked for it?

A. Yes, sir.

Q. When did you first ask him?

A. I do not remember; some time after the canvass.

Q. Did he pay it the first time you asked him?

A. No, sir.

A. Did you ask him again?

A. I do not remember positively, but my recollection—

Q. You did ask him again?

A. Yes, sir.

Q. Did he pay it the second time?

A. Yes, sir. I think he gave me a check on Scott's bank for the amount of \$200.75.

Q. You state you had no such expectation when you went there?

A. Not in the least.

Q. Then, upon what grounds did you ask him to re-imburse you?

A. Because I am a man of not very much means, and have a family to support, and not very well off in this world's goods.

Q. Did you come to the conclusion afterward that you could not afford \$200 on account of city pride?

A. I thought I had labored very earnestly for the welfare of our city and Mr. Caldwell, and, if he was able to, he could pay it; and, if not, it was all right.

Q. What do you know about the payment of the expenses of other gentlemen who went there?

A. I do not know anything about it. He might have paid five cents or a million dollars. I don't know anything about it.

Q. Did you meet, at Governor Carney's room or rooms, with any gentlemen, and consult in regard to Mr. Caldwell's election?

A. I did not.

Q. At any time?

A. No, sir.

Q. Were you in Governor Carney's room?

A. I was not. I was in Mr. Fenlon's room when there were a great many other gentlemen there. Governor Carney might have been there. I do not know. I understood Governor Carney had rooms there.

Q. Were you examined before the Kansas legislature?

A. Never, sir.

Q. Were you subpoenaed?

A. Never, sir.

Q. Had you no intimation that your testimony would be required?

A. No, sir.

Q. Where were you during that examination?

A. I was teller in the German Savings-Bank at the time.

Q. Were you there all the time?

A. Yes, sir. I made one trip to Topeka during that time.

By Mr. HILL:

Q. I understand you to say you went to Topeka for the purpose of influencing votes for Mr. Caldwell?

A. I went there, sir, at the solicitation of some of our business men, they knowing I had traveled the State from center to circumference.

Q. Did they suppose that gave you an advantage over other citizens of Leavenworth in effecting their purposes?

A. I should think so.

Q. How did you propose to accomplish this: by persuasion, or in what way? Did you propose to address your acquaintances who were members of the legislature, making appeals to them in behalf of Leavenworth to elect a Senator from there?

A. If the Senator will please, I will tell the whole of it; my line of argument—

Q. And your line of action?

A. My plan of argument was, that Leavenworth was the metropolis of Kansas, and was bound to be so, and whatever was to the best interests of Leavenworth was certainly to the best interests of the State of Kansas. That was one. There was another that stuck in my head; that was in regard to our Price raid claims; what was known as the Price raid bill. I stated that it had been a long time in Congress—some three or four years—and as we had not got our money, and I believed that a change would affect the citizens of Kansas in that regard, we would get our money.

Q. You state that you worked very industriously both night and day?

A. I think so; I generally do at almost anything I go at.

Q. How effective were your labors; how many votes did you procure?

A. I can't tell you. I may have influenced one man or a dozen.

Q. Can you name one who said you influenced him or induced him to vote for Mr. Caldwell?

A. I can't say anything about that. I know gentlemen who voted for him; I know a gentleman in this room who told me after I came out of his room, "I like Mr. Caldwell, and I shall vote for him."

Q. Did he say it was on account of your argument or address?

A. No, sir.

Q. Did any man ever admit to you that he voted for Mr. Caldwell on that account?

A. No, sir.

Q. You do not know that you effected any good?

A. No, sir.

Q. He paid the hotel-bill, then, for the good-will you had shown him in your efforts?

A. I think he paid it from the fact that I had done all I could.

Q. I think you showed the memorandum of the time of the payment.

A. Yes, sir.

Q. What was it?

A. (The witness, again producing his memorandum.) September 2, 1872. That was the only transaction I had with the Senator in my life.

Q. No members of the legislature, I understood you to say, ever said anything to you about money, or you to them?

A. No, sir.

Q. And you heard nothing of that sort?

A. I have heard a great many rumors about this and that thing.

Q. I mean at the time it was transpiring.

A. I might say, if the committee will pardon me, I might say that a great many of us, when there was a crowd together, one would say, "Here Tom, Dick, or Harry, what will you take for your vote?" "O, well, I will take twenty thousand, or fifteen thousand, or ten thousand dollars;" and all such jokes were practiced all the session.

Q. What particular individual can you name that co-operated with you mostly?

A. Not any.

Q. Who was your most intimate friend?

A. Mr. Jerry Clark, of Leavenworth, and I roomed together; and John Wilson, of the Great Western Foundry, and also Major Foote, were often there.

Q. You are modest in admitting that you do not know whether you accomplished anything.

A. I do not know.

By Mr. LOGAN:

Q. Did you ever direct Mr. Hammond to bring Mr. Snead to your room or office?

A. I never did.

Q. Did you ever see Mr. Snead at your room?

A. I don't know. There was quite a number who took dinner with me at various times.

Q. I asked as to your room. You did not take dinner in your room.

A. But they would come and take dinner, and afterward would go up to my room and smoke a cigar.

Q. Did you see Mr. Snead in your room?

A. He might have been there.

Q. Do you recollect seeing him there?

A. I do not, positively; but I think he was there.

Q. Now, what did you say to him when he was there?

A. Nothing more than general conversation about the senatorial matter, and cracking jokes and other matters.

Q. Did you ever have any talk with him at your room?

A. Confidential talk?

Q. No; any kind of talk.

A. I talked the same to him as every gentleman who called.

Q. Did you ever see him and Hammond at your room?

A. Never.

Q. Do you recollect of Hammond coming to your room and telling you that he had brought Snead there, and did you then tell Snead to wait?

A. No, sir; I have no recollection of anything of the kind.

By Mr. TRUMBULL:

Q. I understand you to say that you did hear talk about money, but it was in a jocular way.

A. Yes, sir.

Q. I understood you to say to Governor Morton, awhile ago, that you did not hear anything about paying money.

A. Well, nothing bearing on the question at all.

Q. It is not for you to decide that. We want the facts, and we will decide what bearing they have. You did hear talk about money?

A. In this joking way.

Q. In a joking way, whom did you hear talk about money?

A. I don't know that I heard anybody particularly, more than myself.

Q. You talked about money?

A. Yes, sir; I always carried a little change in my pocket, and might——

Q. In this joking way, whom did you talk to about money?

A. I don't know, particularly. I might have told Mr. Fenlon there that I would give him twenty thousand or twenty-five thousand dollars for his vote.

Q. You think you told him you would give him twenty-five or thirty thousand dollars for his vote?

A. Something of the kind; some remark.

Q. You now admit to this committee that you told persons you would give money for their votes?

A. Yes, sir; in that joking way.

Q. You say now that it was then meant to be in a joking way?

A. Yes, sir.

Q. Do you recollect of saying it to anybody else?

A. No, sir.

Q. Was it not a common talk about Topeka at that time that money was being used in that election, and members selling their votes?

A. Not that I heard of.

Q. You never heard anything of the kind?

A. No, sir.

Q. And all you heard was what you said yourself?

A. Yes, sir.

Q. You never heard any man at any time speaking about it, and you went about speaking jocularly about offering money. Is that it?

A. Not that I recollect of.

Q. You never heard a man speak of it but yourself?

A. I can't recollect. I heard a great deal of talking around there.

Q. Did you hear anything about money from anybody but yourself?

A. No, sir; I don't think I did.

Q. Then you jocularly went about proposing to pay money for votes?

A. I did not go about.

Q. You said it to different persons?

A. I do not know that I did to different persons. There may have been a great many men in his room at the time,

Q. Then you said it to a great many men?

A. No, sir; not a great many.

Q. You said, just now, "There may have been a great many in the room," when you said that you would pay money for votes.

A. I said it to a number of men. I don't know positively. My recollection is now that I said jocularly to Mr. Fenlon, one of our own delegation, "Tom., how much will you take for your vote?" or something of the kind, in a circle where there were quite a number of our citizens.

Q. But you say you were the only person you ever heard speaking of paying money?

A. No, sir; I do not know that any offered money.

Q. I asked if any one spoke of money being used, and you said you heard no one talk of it but yourself.

A. I think so, sir.

Q. You did not not hear it from any source except what you yourself said?

A. I think so.

Q. You said to a number of persons in a joking way that you would pay for their votes?

A. I did, sir.

Q. You say you used no money, and that you know of no money being used, and have heard of no money being used, except the two hundred and odd dollars?

A. Nothing, only what I saw in the newspapers.

Q. But at that time?

A. I did not.

Q. You had no money that went through your hands, and had no knowledge of anybody else using money?

A. No, sir; I had not.

Q. Did you say that in the hearing of members of the legislature?

A. I can't tell you.

By Mr. CARPENTER:

Q. Who was Mr. Fenlon?

A. One of our citizens.

Q. Was he a member of the legislature?

A. He was a member of the lower house, probably.

By Mr. TRUMBULL:

Q. You say "probably." Was he, or not?

A. Yes, sir; I think he was.

Q. Where from?

A. From our county.

Q. Would you not know positively?

A. Yes, sir.

Q. You have been treasurer of the county?

A. I am the treasurer now. I was not at that time.

Q. He was supported by those men who supported you for the office of treasurer?

A. I cannot tell.

Q. Did Mr. Caldwell support you and him?

A. I don't know whether he was in town then.

Q. You went for Mr. Caldwell because he lived in Leavenworth?

A. Yes, sir.

Q. And not because he was a fit man for the position for which he was a candidate?

A. I only went for him because he was a Leavenworth man.

Q. When you urged him upon your extensive acquaintance over the State, your only inducement or reason for doing it was that he was a Leavenworth man?

A. I believed he was a good man.

Q. But you never mentioned that?

A. I believe I did.

Q. I thought you said a moment ago you only went for him because he was from Leavenworth?

A. No, sir; I said he was a good man.

Q. Did you ever urge his qualifications for Senator as a reason for his election?

A. I urged it thus far; that I had known him many years, and I believed him to be an active, good business man.

Q. Did you urge his qualifications on others as a reason why he should be elected Senator?

A. I think I did, frequently.

Q. Upon whom did you urge that?

A. To a great many men.

Q. Let us have their names.

A. To Mr. Phinney, and Mr. Green, and a great many others.

Q. Where does Mr. Phinney live?

A. In Morris County.

Q. You urged Mr. Phinney to go for Mr. Caldwell because he was a competent and proper person to elect?

A. I told him I thought he would help the whole State of Kansas.

Q. You can remember now that you said that?

A. Yes, sir.

Q. You are sure you said that to Phinney?

A. Yes, sir.

Q. To whom else did you say it?

A. I don't remember now. There were a good many men there from all parts of the State. I can't state who all.

Q. Did you talk to nearly all of them?

A. No, sir; I suppose a good many men I did not talk to.

Q. That were members?

A. Yes, sir.

Q. Are you sure you did not speak of money to all you did talk to?

A. Yes, sir.

Q. You are sure you talked to some to whom you did not talk about money?

A. I am sure I did not talk about money to anybody.

Q. Did you not admit to me a moment ago that you did?

A. In that qualified way.

Q. But I ask for what you said; no matter about the way. You said it—you admitted a moment ago—that you did say you would give money

for votes, but you say now it was only joking. I ask you if you said it to each one you spoke to, and you say you never said it to anybody. Did you not say you would give money for votes?

A. I did, in that qualified sense.

Q. Did you say it in that qualified sense to every member you saw?

A. No, sir.

Q. How do you know? Do you recollect what ones you did see?

A. I do not know positively.

Q. You remember one member positively that you said it to; can you state any more?

A. I might not have said it to him. It is like a dream that I said it to him. I think a great many of our Leavenworth delegation were in Mr. Fenlon's room, and I might have said "Here, what do you want for your vote;" I, or somebody might have said that.

Q. Do you not think Mr. Snead heard that?

A. No, sir; I do not.

Q. You do not know whether he heard it or not?

A. No, sir.

Q. Mr. Snead might have heard you talking in that joking way?

A. He might have heard it. I can't tell you.

Q. Then it is possible that you may have said to Mr. Snead that you would give money for his vote?

A. I am very positive I never talked to Mr. Snead about money.

Q. You were talking where he heard you?

A. It may have been, sir.

By Mr. CARPENTER:

Q. Who was this man to whom you say perhaps you did talk in a joking way upon this occasion?

A. I think it may have been in Mr. Fenlon's room.

Q. Was he from Leavenworth?

A. Yes, sir.

Q. Was he a Caldwell man?

A. Yes, sir.

Q. Originally so?

A. Yes, sir; I think so.

Q. Known to be so by all the legislature?

A. Yes, sir.

Q. Known to be actively and openly working for him?

A. Yes, sir.

Q. Suppose that any of these members that heard you talking in this way, saying that you would give five thousand, or ten thousand, or twenty thousand dollars, had come up and offered you their votes for that amount of money; had you the money, or could you have obtained it, or were you authorized to pay them for the votes?

A. I don't think I would have given twenty-five cents for any one.

Q. You say that what you did say was said in the presence of bystanders?

A. Yes, sir.

Q. And in a joking way?

A. Yes, sir.

Q. Did you ever take a man aside and offer him money?

A. No, sir.

Q. Or do you know anybody who did?

A. No, sir.

By Mr. CROZIER :

Q. Or any other consideration ?

A. No, sir ; I don't know of any other consideration.

Q. Did you offer any other consideration in any shape or form ?

A. No, sir.

By Mr. TRUMBULL :

Q. I ask whether, in consideration of your efforts at Topeka to elect Mr. Caldwell, you received the support of Mr. Caldwell to elect you treasurer ?

A. No, sir ; I don't think I did.

Q. You don't think you did ?

A. I can't tell what the motive of these gentlemen was who voted for me.

Q. Did you not get money which you expended in your election ?

A. Not one dime.

Q. Did you not pay out any money ?

A. No, sir. I paid out money for general election expenses, bands and music, and printing, &c. ; but that was out of my own pocket.

Q. But you did not get any of your money from any of these gentlemen at Topeka ?

A. No, sir ; not a dime.

Q. Nor from Mr. Caldwell ?

A. No, sir. Not before nor since.

Q. Did you not pay out \$400 to one man ?

A. No, sir.

By Mr. HILL :

Q. When was that election ?

A. Last fall a year ago. I took my seat in July.

Q. Your election came off in 1871 ?

A. In November, 1871.

Q. You still hold under that election ?

A. Yes, sir.

Q. Your term is two years ?

A. Yes, sir.

By Mr. CROZIER :

Q. You say Mr. Caldwell re-imbursed you six or eight months after the time of the election ?

The CHAIRMAN. He said in September, 1872.

The WITNESS. (Again referring to his memorandum-book.) On the 2d of September, 1872.

By the CHAIRMAN :

Q. When was the election for Senator ?

A. The senatorial election was in January, 1871.

By Mr. CARPENTER :

Q. What was the exact date of this senatorial election ?

A. It was on the 24th and 25th days of January, 1871.

Q. And this payment was in the fall of 1872 ?

A. The 2d of September, 1872.

By the CHAIRMAN :

Q. You say you spoke to Mr. Caldwell then about paying these expenses, and that the first time he did not pay them. What reason did he give for not paying them ?

A. I don't think he gave any. I just spoke to him on the street or somewhere about it. He said he would see me again.

Q. How long was that before the payment was actually made?

A. It may have been two or three months. I don't remember now.

By Mr. CARPENTER:

Q. What is the date of that payment?

A. September 2d.

Q. In what year?

A. One thousand eight hundred and seventy-two.

Q. That is more than a year after the election, if the election was in January, 1871?

A. Yes, sir.

By Mr. CALDWELL:

Q. Are you not mistaken? Is not that in the year 1871 that the payment was made?

A. I have not examined for the year. (Again examining his memorandum-book.) It was in September, 1871.

By Mr. CARPENTER:

Q. This payment was made in September, 1871, the same year in which the election took place?

A. Yes, sir.

Q. You ran for treasurer in that year?

A. Eighteen hundred and seventy-one. I took my seat in July. We elect seven or eight months before we take our seats.

Q. In what year did you run?

A. Last November one year ago. That was in 1871, and I was elected then.

Q. When this payment of \$200.75 was made you say it was in September?

A. Yes, sir.

Q. Had you then been nominated for treasurer?

A. No, sir.

Q. Were you making a canvass or spending any money to procure the nomination?

A. No, sir; not up to that time.

Q. Was there any connection between the payment of this money and your wanting to carry on your canvass for treasurer?

A. No more than you had connection with it; not a bit.

By Mr. CROZIER:

Q. When that \$200.75 was re-imbursed to you by Mr. Caldwell, was it in pursuance of any contract, or agreement, or understanding made before the Senator's election, that your expenses should be re-imbursed?

A. No, sir. Not more than any of these Senators here.

Q. Was it understood between you at the time to be a gratuity?

A. No, sir.

Q. What then?

A. When I presented it to Mr. Caldwell I said if he felt able to do it, I was a poor man and I would be glad if he would, and he kindly presented his check.

Q. Did you make a claim?

A. I told him I had incurred these expenses at my own risk, and he kindly gave me his check for it.

By Mr. CARPENTER:

Q. Did he give his check for the precise amount, \$200.75?

[A. Yes, sir.

Mr. TRUMBULL. Then it was a gratuity, wasn't it?

By Mr. CLARKE:

Q. I understood you to say that at this time you were a salesman of Stattauer & Einstein.

A. Yes, sir.

Q. Was that your only connection with them?

A. Yes, sir.

Q. You did not keep the books of the firm?

A. No, sir; had no more to do about it or with them than you have.

By Mr. CROZIER:

Q. But you would have known whether the firm you were with had a note on a man named Butler?

A. I don't think that Butler owed my firm five cents.

Q. Would you have known it?

A. I think I should; I think I should have known it.

Q. Was it your business to travel around seeing those who owed them?

A. Yes, sir; I was traveling around the State.

TUESDAY, *January 21*, 1873.

JOHN L. PENDERY sworn and examined.

By Mr. CROZIER:

Question. Where do you reside?

Answer. In Leavenworth.

Q. How long have you resided there?

A. About sixteen years. I went there in 1857.

Q. What is your business?

A. I am an attorney-at-law.

Q. Do you know Mr. Caldwell?

A. Very well.

Q. How long have you known him?

A. I think the first acquaintance I had with him was shortly after I went to Leavenworth; probably within three weeks after I went there.

Q. What, if anything, do you know about any proposition, or any movement, prior to the fall of 1870, in the direction of making Mr. Caldwell a candidate for Congress, or any other office?

A. I do not remember the exact date, but shortly prior to the nomination of the candidates for Congress I went to Mr. Caldwell and said to him that I thought he ought to become a candidate. I gave my reasons for it, "that Leavenworth had been ignored in our railroad matters and other interests, and the candidates for Congress were such characters that our people could not harmonize upon them," and I said to Mr. Caldwell, "You are a man of means enough to afford to go to Congress." I said that he had the qualifications; that he was, as I regarded him, a correct business man; a quiet respectable citizen; that nobody could say anything against his private character, and I suggested to him to become a candidate for Congress. I was the first man that spoke to him about it, as he afterwards told me. He said, in reply, he

never thought of such a thing; that his business matters were such that he could not afford it; that he had to devote his time and attention to his business matters. I think that is about the conversation I had with Senator Caldwell.

Q. How far did this statement you made to Senator Caldwell represent the general sentiment of the community at that time on this subject?

A. Well, sir; at that, and at a subsequent time, just prior to the coming off of the senatorial election, our best people at Leavenworth felt a great interest in Leavenworth being represented in the Senate. There were other candidates for the office from Leavenworth that our people could not agree upon. It was the general interest of Leavenworth that we should have a Leavenworth man, and Mr. Caldwell's private character being good and above suspicion, and regarded as a correct business man would make a respectable Senator, and it was the general impression that if we could get such a man it would be very desirable, not only to Leavenworth, but the State. Our politicians' reputations were not of the best, and we wanted to get some man, our good people did, some man above suspicion, and with that view I talked to him. I felt a deep interest, as many of our citizens did in the success of Leavenworth, and in that way I talked to Senator Caldwell. I went to Topeka, and was there, and did what little I could. I am not a politician. I never ran for office in my life. I went up there with the better class of our people to see that we could get a good man. I was in and around. I was in the rooms with Mr. Smith, and with the different members, Mr. Fenlon, Mr. Van Doren, and other acquaintances I had. I presented Mr. Caldwell's claims. I used such influences as I could by saying that Mr. Caldwell was a gentleman, that his character was good, and that he would make a respectable Senator. I went there and remained there until the election was over, and came home at my own expense.

Q. In doing that, how far did you represent the views and wishes of the people of Leavenworth generally?

A. I think, sir, almost the unanimous sentiment, except of a few persons who wanted the office themselves; but I should say it represented nine-tenths of the people of our city.

Q. The sentiment of the people?

A. The sentiment of our people; I think so. It did at the time.

Q. Do you know a man named Carson who testified here the other day? I do not know his first name.

A. Yes, sir.

Mr. HILL. William H. Carson.

A. Yes, sir; I think so.

By Mr. CROZIER:

Q. I will ask what you have heard him say in this city or elsewhere in reference to an affidavit which he proposed to publish, containing charges against Mr. Caldwell?

A. I never heard him speak concerning an affidavit. I had a conversation with him. I met him accidentally at the corner of Seventh and Louisiana avenue.

Q. When was that?

A. Last spring, when I was here; probably April. He made a statement to me.

Q. What was it?

A. He asked me how I felt concerning this senatorial question, and,

knowing the man, I said at once that it made no difference to me; I took very little interest in it. I said that with a view that probably he would say more to me.

Mr. TRUMBULL. Is this in reference to a matter that Mr. Carson was questioned about?

Mr. CROZIER. Yes, sir.

The WITNESS. Mr. Carson simply said to me, "I am here, and I am going to make some money out of this matter."

Q. What did he allude to?

A. If I mistake not, there was at that time some agitation or some steps tending to an investigation into Senator Caldwell's election. He referred to that and represented a good many things to me, and said he controlled, I think, about twenty-two democratic votes in the legislature. I knew the man and knew he could hardly control his own, if there was any money at issue.

Q. Is that all he said?

A. That is about the substance of what he said. He proposed to make some money out of it, and if the parties interested in it wanted to prevent his testimony they could come and see him, or something to that effect. I listened, and said very little to him and left him.

By Mr. CARPENTER:

Q. Was he alluding to any investigation in the Senate?

A. Yes, sir.

By Mr. CROZIER:

Q. Did he say how he proposed to make something out of it?

A. He did not say. He simply said he proposed to make some money. I inferred, I think I know, what he meant.

Q. Did he say anything to you about obtaining money from Mr. Caldwell or his friends?

A. I do not think he did. I think he said that he had got a thousand dollars from some member by going to him and saying to him that if he did not give up the money he would send him to the penitentiary, or something of the kind—I do not remember the man's name—and that he got the money and kept it.

By the CHAIRMAN:

Q. Was the man named Crocker?

A. I do not know. I would not know the name. I listened to what he said and finally excused myself and left him.

By Mr. CROZIER:

Q. Was it in reference to some such statements as that that he proposed to make or said that he could make some money?

A. Yes, sir; that is what he said; he proposed to make some money out of it.

By Mr. CARPENTER:

Q. Out of this investigation?

A. Yes.

By the CHAIRMAN:

Q. Where did this conversation with Carson take place?

A. In this city; on the corner of Seventh street. I just came down Seventh. I believe it is the street that comes by the Post-Office.

Q. Was it in this city? That is what I wish to know.

A. Yes, sir.

Q. What time last year was that?

A. I was here twice last spring. I came here in February. I went away in March and staid at home two weeks, and came back in May; whether it was the first or second visit, I do not remember.

Q. Do you know how Carson came to make this communication to you?

A. No, sir.

Q. You do not know any object he had in speaking to you about it?

A. No, sir; I do not. He knew me, and his remark (or my remark to him) probably led him to say more than he would otherwise have said when he asked me how I felt on this question, and I told him I felt perfectly indifferent; took no interest in it.

TUESDAY, *January 21, 1873.*

THOMAS P. FENLON sworn and examined.

By Mr. CROZIER:

Question. Where do you reside?

Answer. At Leavenworth.

Q. How long have you resided there?

A. About thirteen years.

Q. What is your business?

A. Attorney at law.

Q. Do you know Mr. Caldwell?

A. I do.

Q. Do you know Mr. Len. Smith?

A. Yes, sir.

Q. Almost everybody in Leavenworth?

A. I have a very general acquaintance there.

Q. Where were you in January, 1871?

A. Most of the month I was in the legislature of Kansas.

Q. From what locality?

A. From Leavenworth County.

Q. From what district?

A. I think it was the twenty-second district then.

Q. What ward?

A. The fourth ward of the city.

Q. Does Mr. Caldwell reside there?

A. Yes, sir.

Q. Near you?

A. The next block to me, or second next.

Q. Where were your lodgings in Topeka during that session?

A. My rooms were about three houses below or east of the Tefft House. I boarded at the Tefft House, and had rooms out in the building I described, three doors below.

Q. Who else had rooms there?

A. Mr. Van Doren, from our county, occupied the bed-room on the left side of the hall, the front room which has been designated here as the committee-rooms, was on the left side of the hall. On the other side was a room occupied by Governor Carney; the middle room on the right side was occupied by the family of a gentleman who kept a restaurant immediately under the building. Governor Carney's and mine were just opposite.

Q. Who roomed with you?

A. Senator Van Doren.

Q. Were your rooms frequented by people from Leavenworth?

A. Yes, sir. There was a kind of general rendezvous for Leavenworth people when they came there during the pendency of the senatorial contest. The rooms were always crowded.

Q. Was a large number there from Leavenworth?

A. There was a very large lobby from Leavenworth—a large number of people.

Q. For whom did you vote for United States Senator?

A. For Senator Caldwell.

Q. In both houses?

A. Yes, sir; that is, in the lower house and in joint session.

Q. Why did you vote for Mr. Caldwell?

A. There were two or three reasons why I did it. In the first place I did not belong to Mr. Caldwell's party, having the misfortune to be a democrat. There were about seventeen or nineteen of us in the house, or in both houses. It became manifest at once of course that there was no hope for a democrat; that we had to decide the question between the competing candidates in the republican party. The caucus of democrats resolved that it was inexpedient to nominate a candidate. I then had to determine which of the republicans I would support. The immediate constituency I represented were unanimous in their desire to have a Leavenworth man elected. Representing as I did that feeling, having no candidate of my own party to vote for, Mr. Caldwell in my estimation being as fit for the place as any other candidate before the convention, and being from Leavenworth, I voted for him for those reasons.

Q. During the progress of that canvass did you hear anything said about the use of money?

A. O, yes, sir.

Q. In what way was it said?

A. The subject of money was talked of very generally in the city in rumors around.

Q. Was it ever talked of in your presence?

A. Yes, sir.

Q. In what manner and among what people?

A. It was generally discussed in a general way. It was a constant subject of conversation.

Q. Do you know of any members of the legislature having been approached with a proposition to vote for money?

A. I do not.

Q. Did you see any money used there for any such purpose?

A. I did not, sir.

Q. Did you hear much said among the people up there from Leavenworth on the subject of the senatorial canvass?

A. Yes, sir; a great deal.

By Mr. CARPENTER:

Q. What district did you represent?

A. Leavenworth County. There are several districts in the county, or were then.

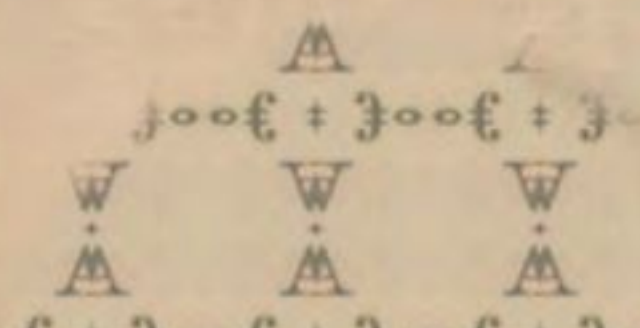
Q. You were elected from Leavenworth?

A. Yes, sir; from the city.

By the CHAIRMAN:

Q. The twenty-second district of your State?

A. Yes, sir; I think it was; the twenty-second representative district of the State then, the Fourth ward.



By Mr. CARPENTER :

Q. Was the Fourth ward a district ?

A. Yes, sir.

By Mr. CROZIER :

Q. Did you ever see Mr. Len. T. Smith up there ?

A. Yes, sir ; very frequently.

Q. Did you often ?

A. Yes, sir.

Q. What was he doing ?

A. He seemed to be earnestly working for Mr. Caldwell's election.

Q. So far as you could see, how was he doing it ?

A. Well, in talking to members around the city, talking with newspaper men, and generally was lively in the interest of Mr. Caldwell.

Q. Do you know of any illegitimate means being used there to influence members of the legislature to vote for Mr. Caldwell ?

A. I do not, sir.

Q. Were you a prominent, or otherwise, member of the Leavenworth delegation ?

A. I do not know how to answer that. I was a pretty lively member.

By Mr. CARPENTER :

Q. You were around ?

A. I was there.

By Mr. CROZIER :

Q. Were you a lively or quiet member in the house ?

A. They gave me the credit of being rather boisterous.

Q. Do you know how the votes stood at each ballot there ?

A. I do not remember now. I think on the first ballot in the house Mr. Caldwell had some 37 or 38 votes, and Mr. Clarke about the same number.

Q. How many of the Leavenworth delegation voted for Mr. Caldwell ?

A. The entire delegation.

Q. Both times ?

A. Yes, sir.

Q. So far as you could see after you came home and while there, was that vote cast in accordance with the wishes of the people generally ?

A. I have no doubt in the world of it. At the time the people were in favor of a Leavenworth man.

By the CHAIRMAN :

Q. You mean the Leavenworth people ?

A. Yes, sir. They were in favor of a Leavenworth man rather than any love for Mr. Caldwell personally. The contest between localities in the State became such.

By Mr. CALDWELL :

Q. How many votes on joint ballot did I get ?

A. I do not remember.

Mr. CALDWELL. I received 87 votes. I desire that to appear in the record.

The CHAIRMAN. That you can have placed in the record at any time.

By the CHAIRMAN :

Q. Did that argument in favor of Leavenworth that influenced you

influence many other members outside of the city, in other parts of the State?

A. My impression is, it did. There was a kindly feeling toward Leavenworth, that justice had not been done her.

Q. Did you know anything at the time of that canvass in regard to an arrangement with Governor Carney for a money consideration to withdraw from the canvass and use his influence for Mr. Caldwell?

A. No, sir.

Q. That matter had not been confided to you?

A. No, sir; I was not in any secrets at all. If there were any secrets I did not know them.

Q. You did not know that one?

A. No, sir, I did not.

Q. Did you know anything about a \$7,000 check being drawn by Len. Smith?

A. No, sir; never until I saw Mr. Smith's testimony.

Q. And never heard of it?

A. No, sir.

Q. Did you know of any promise to Mr. Clarke to re-imburse him for his expenses in case of his withdrawal?

A. No, sir.

Q. You did not hear of it at the time?

A. No, sir, I did not.

Q. You say the subject of the use of money in the election was a constant theme of conversation?

A. Yes, sir; it is always talked of in senatorial elections in Kansas, and then as much as before and before as much as then.

Q. Do you know what gave rise to so much conversation during that canvass upon that subject?

A. I cannot say that I know—any more than an opinion on the question.

Q. But you say that there was no confidence reposed in you in regard to any money transaction?

A. Not the slightest. Mr. Caldwell always knew, and all his friends since he was the sole candidate from Leavenworth, that he was assured of my vote and, I think, the delegation.

Q. From what they knew of you they would hardly have confided anything of that kind to you?

A. I am perfectly sure they would not. If they had I would have exposed it, if there was anything to expose.

By Mr. CROZIER:

Q. You said there was no more talk during that election than at other times. Was that not common talk at every senatorial election, commencing at the first?

A. I was not present at the very first one. It was at every one I was present at.

Q. When were you present?

A. When Ross and Pomeroy were elected and at this time.

Q. Were you present the second time Lane was elected?

A. Well, I will there make an exception. I do not think there was so much talk then.

Q. Is there such talk about the pending election out there?

A. O, yes, sir; there was when I left Kansas.

By Mr. CARPENTER :

Q. And I suppose you think it will never stop until the democrats get into power ?

A. That is my opinion.

Q. Did you hear what George Smith said about offering money in a jocular way—offering twenty-five or thirty thousand dollars ?

A. Yes ; I am glad you called my attention to that.

Q. What was there about that ?

A. Mr. Smith never made such a remark to me, or, if he did, it was purely jocular, and so deemed, about any \$20,000 or \$10,000 for that vote.

By Mr. CALDWELL :

Q. You did not get it ?

A. Not to my recollection.

By the CHAIRMAN :

Q. I do not believe you did.

A. Thank you, sir. The people do not believe it either.

By Mr. CLARKE :

Q. Did you introduce a resolution during the pendency of that canvass, on the subject of paying members for their votes, or of bribery in the house ?

A. I did not introduce any resolution on the subject of bribery.

Q. Did you not introduce a resolution touching that subject ?

A. The only way to answer you is to tell you what I did introduce.

Q. I want the fact.

A. I introduced a resolution just previous to the vote, authorizing the speaker of the house, just before the call of the vote, to administer an oath to the members, standing, that their votes were not influenced by money, which resolution prevailed.

By the CHAIRMAN :

Q. Was the oath administered ?

A. Yes, sir.

By Mr. CLARKE :

Q. Did they all take it ?

A. I cannot say how many, but I think about two-thirds stood up and took it.

Q. Was there a portion of them who did not stand up and take it ?

A. Yes, sir.

Q. When was it introduced ?

A. It was introduced on the day of the first vote.

Q. And a portion of the members refused to be sworn ?

A. That is my recollection.

By Mr. CARPENTER :

Q. Upon what grounds did they refuse—that they had the money ?

A. No. The argument made against the passage of the resolution was, that they had taken an oath when they were sworn in as members, and that that was swearing enough for them.

By the CHAIRMAN :

Q. Did you think the argument a good one ?

A. I did not know, but I combatted it the best I knew how.

Q. I will ask if the introduction of that resolution about that time was not the result of a conviction that bribery was going on? Would a resolution of that extraordinary character have been justified, in your estimation, aside from a conviction of that sort?

A. That is a pure matter of opinion, Mr. Chairman.

Q. I will ask you if you did not introduce it because of an apprehension on your part that there was bribery being used at the time?

A. The motive that induced me to offer the resolution certainly grew out of the fact that there was a great deal of that kind of talk, and I desired above everything to preserve myself as pure as I could. That was my chief motive.

Q. To vindicate yourself?

A. Yes; and to give others an opportunity. I did not deem that I required a personal vindication, but because of these rumors and talk I thought it necessary.

Q. The talk was so general that you offered it in vindication of yourself?

A. Yes, sir. I will not use that term. I did not deem that I needed vindication, but to show that I was very willing to take the oath myself.

By Mr. HILL:

Q. From the conversations you had heard, were you led to suspect that some particular members would not take this oath you proposed?

A. I am satisfied that a great many gentlemen who did not take the oath refused to take it upon the ground that they did not think it proper.

By the CHAIRMAN:

Q. It was an order of the house when administered?

A. Yes, sir.

By Mr. CARPENTER:

Q. Did you understand at that time that the house had a right to make such an order?

A. I thought it was a matter entirely within the power of the house.

Q. Not as a condition to vote?

A. No; but as an order of the house.

Q. Is there any law of Kansas authorizing any special oath to members of either house?

A. No, sir.

Q. Or any provision in the constitution?

A. There is not.

By Mr. ANTHONY:

Q. I will ask whether any of those who refused to take it, did so upon the ground that it would be a reflection upon them?

A. Yes, sir; they did.

Q. Were there among those who refused to take the oath men who, so far as you know, were above all sort of suspicion?

A. I think there were.

By Mr. HILL:

Q. Was there any proceeding on account of their refusal afterward?

A. No, sir. The matter dropped right there.

By Mr. CROZIER:

Q. Do you know whom the persons who refused to take the oath voted for?

A. I do not. I think their votes were scattered.

By Mr. CARPENTER:

Q. Is there means of determining on the record of the legislature what members took the oath and what members refused to take it?

A. No, sir. It was all done in fifteen minutes.

By Mr. HILL:

Q. Done by rising?

A. Yes, sir.

By Mr. CARPENTER:

Q. No record of it?

A. No, sir. There is a record of the resolution and the proceedings.

By the CHAIRMAN:

Q. But not of the names of the members?

A. No, sir.

By Mr. ANTHONY:

Q. Was it mandatory?

A. Yes, sir.

Q. What was it?

A. It was, "*Resolved*, That just previous to the call of the vote upon the senatorial question, the speaker of this house be authorized and directed to administer to the members standing in their places the following oath: You do swear by Almighty God, the Searcher of all hearts, that your votes in this matter have not been, and will not be, controlled by any money or other improper consideration?"

By the CHAIRMAN:

Q. Did the resolution go on and specify that those who did not take the oath should not vote?

A. No, sir.

Q. Simply an order that they should take the oath?

A. Yes, sir.

By Mr. ANTHONY:

Q. And I understand that those who refused to take the oath were scattered in voting for Senator?

A. Yes, sir.

Q. Some voting for Mr. Caldwell and some for other candidates?

A. Yes, sir.

Q. Was there any debate on that resolution?

A. There was some fifteen or twenty minutes' debate. It stirred up some excitement.

By Mr. CARPENTER:

Q. That was the object of it, I suppose. Did you not think at the time that that was pretty good democratic capital?

A. No, sir. My motive for it was this: that I was voting for a man not of my own political party, and who had the reputation of being a wealthy man.

Q. It ought to have been confined to democrats, then?

A. The democrats are not afraid to swear to what they are doing.

Q. Did all the democrats take that oath?

A. Yes, sir; I think so.

The journal of the proceedings of the house of representatives of the State of Kansas for the eleventh session, commenced at the State capitol, Tuesday, January 10, 1871, was here produced before the committee, and the resolution referred to by Mr. Fenlon was read to the committee as follows:

"Mr. Fenlon arose to a question of privilege in reply to a certain article in the Leavenworth Daily Times.

"Mr. Fenlon, by consent, offered the following resolution:

"Whereas it is reported in the press of the State and currently spoken of in the streets of the capital, and other principal cities of the State, that money is being used to buy the votes of members of this house in the senatorial election now pending; and

"Whereas it is due to the character of the members of this house, and due to the gallant and confiding people who have intrusted us with sacred powers, to be exercised only in their interests and for their benefit, that such rumors should be promptly and effectually silenced: Be it therefore

"*Resolved*, That immediately before the roll is called for the vote on the senatorial candidates the speaker of this house administer to the members of this house the following oath:

"You, and each of you, do solemnly swear before Almighty God, the Searcher of all hearts, that you have not now received, and will not receive, any money or other valuable thing to influence or control your vote on the senatorial question."

By Mr. TRUMBULL:

Q. Was that preamble true, as you understood it?

A. Yes, sir; as I understood it.

Q. And believed?

A. Yes, sir.

Q. The preamble is true; these rumors were floating?

A. The preamble is true as there stated.

By Mr. CROZIER:

Q. Do you pretend to say the statements contained in the preamble are facts?

A. It is true that they were rumors.

TUESDAY, January 21, 1873.

JEREMIAH CLARK sworn and examined.

By Mr. CROZIER:

Question. Where do you live?

Answer. In Leavenworth.

Q. How long have you lived there?

A. I have resided there since 1854, since the first settlement of the town.

Q. You were among the original squatters on the site there, were you not?

A. Yes, sir.

Q. Do you know Mr. Caldwell?

A. Yes, sir.

Q. How long have you known him?

A. Since 1861 ; the early part of that year.

Q. Do you know Governor Carney ?

A. Yes, sir.

Q. Do you know where Jacob Steinbaugh's saloon is, on 5th street in Leavenworth ?

A. Yes, sir.

Q. Had you any conversation within six weeks or two months in that place with Governor Carney ?

A. I had a conversation there about two months ago.

Q. Who was present besides you and Governor Carney ?

A. There was a Mr. Sherwood, who was employed by the Government at Fort Leavenworth. I think he is a civil engineer, reported on the quartermaster's reports as a civil engineer.

Q. I will ask whether during that conversation Governor Carney used this language, or substantially this language, that he intended to oust Mr. Caldwell from his seat in the Senate.

A. He did ; he used substantially that language.

Q. Was that his language on that subject ?

A. In connection with some grievance, or supposed grievance, connected with the senatorial election, six years before, he denounced Mr. Caldwell and Mr. Smith, and said, with an oath, " I will unseat Mr. Caldwell ;" and in a subsequent conversation he repeated it again, and said, " We will unseat him, and he will be unseated."

Q. Whom was he including when he said " we ?" Did he say ?

A. He did not say.

Q. Did he seem to be in earnest ?

A. He seemed to be terribly in earnest ; he was excited.

Q. Were you at Topeka during the senatorial election ?

A. Yes, sir.

Q. In whose interest ?

A. I went there as a friend of Mr. Caldwell.

Q. What do you know or what did you see of the use of money at Topeka ? How long were you there ?

A. I was there, backward and forward, during the whole senatorial contest. I would return to Leavenworth and stay a day or two, but go back again. I suppose I was there possibly ten days ; I cannot state exactly.

Q. Did you have frequent interviews with the other friends of Mr. Caldwell there from Leavenworth ?

A. Yes, sir, and other persons.

Q. Not from Leavenworth ?

A. Yes, sir.

Q. Now, what do you know of the use of money in that election ?

A. I know nothing of the use of money in that election ; I might say, the improper use of money in that election ; there was one transaction in which I was paid a sum of money in connection with that thing.

Q. What was that ?

A. It was some time after the election I said to Mr. Caldwell that I had expended some ; I showed him a little memorandum in pencil ; he did not look at it ? I told him I had expended \$94, and if he thought best he could refund me the money ; he did so at once. Well, he gave me a check, I think, for \$100 ; this was \$94, but he said he was under obligations to me then.

Q. What was that bill for, that \$94 ?

A. It was for hotel-bills and railroad-fare for myself and other parties.

By Mr. CARPENTER :

Q. Members of the legislature ?

A. No, sir.

By Mr. CROZIER :

Q. Your bill was for \$94, and Mr. Caldwell gave you a hundred dollars ?

A. Yes, sir.

Q. Was there any previous arrangement between you and Mr. Caldwell that he should pay your expenses ?

Q. As I recollect, I was, I think, a confidant of Mr. Caldwell pretty early in the canvass. As I recollect it, Mr. Caldwell told me he wanted me to stand by him, and do what I could. He knew I was an old and fast friend of his, and he told me that anything in the way of expenditure of money he would refund ; he knew that I was a man in straitened circumstances.

Q. What do you mean by "in the way of expenditure of money"—personal expenses ?

A. Yes, sir ; personal expenses.

Q. Anything else ?

A. No, sir ; I did not understand it to include anything else.

By the CHAIRMAN :

Q. When did this conversation take place in which he said he would make good any expenditure of yours ?

A. It was before the election.

Q. Before you went to Topeka ?

A. Yes, sir.

Q. When did you call upon him afterward to re-imburse you ?

A. It might have been a week or two after the election. I had borrowed some money to make——

Q. You stated that you were a confidant of his, early ?

A. Yes, sir.

Q. Did he confide to you any arrangement with Governor Carney ?

A. No, sir ; he did not.

Q. Did he confide to you any arrangement with Mr. Len. Smith ?

A. No, sir.

Q. Was anything said about it in any way ?

A. Mr. Smith used to meet me very frequently there in Leavenworth with a few gentlemen. In speaking of this coming canvass, he never confided to me any money operations he had. I will say that Mr. Caldwell said at the outset to his friends that in this canvass he expected to pay legitimate and proper expenses of that canvass, as traveling. I considered that his refunding my expenses would be a proper, legitimate expense.

Q. You say he made that statement to you and other friends ?

A. He made it to me. It was in a room where there may have been others, but it was made to me personally. He said to me at that time that no one need to ask him to go any further in connection with this subject ; that no one need ask him for a dollar for an improper use or an improper expenditure.

By Mr. TRUMBULL :

Q. Do you live at Leavenworth ?

A. Yes, sir.

Q. Are you the postmaster there ?

A. Yes, sir.

Q. Was there any understanding there that you should be postmaster if Mr. Caldwell was elected?

A. No, sir.

Q. At whose instance were you appointed?

A. After Mr. Caldwell was elected, a month or two, I think, he had come on to Washington, and I wrote to him that I had been an applicant for that office for some years.

Q. Will you repeat that a little louder?

A. Some time after Mr. Caldwell had been elected to the Senate and had come on to Washington to attend to his duties, I wrote to him that I thought under the circumstances he might give me that office. I had been an applicant for it, as he knew, and I also said that he knew whether I was competent or not to perform the duties.

Q. What did you mean by "under the circumstances?" Did you mean that by reason of what you had done to aid him in the election in part—

A. On the score of friendship generally, I meant it, and on the score of my having come twice for that office. When Mr. Grant was inaugurated I came here as an applicant for that office.

Q. Who was your predecessor?

A. Mrs. Johnson.

Q. Had her term expired?

A. No, sir.

Q. She was turned out? You say there was no understanding at the time you gave your support to Mr. Caldwell that she was to be turned out and you appointed if he were elected?

A. No, sir; none at all. I never said "office" to him once.

By the CHAIRMAN:

Q. Who did you say was your predecessor?

A. Mrs. Johnson.

Q. A widow lady?

A. Yes, sir.

Q. Had you been in the Army?

A. I have been in the Regular Army.

Q. But during the war—the late war?

A. No, sir; I served in the Quartermaster's Department during the late war.

By Mr. CALDWELL:

Q. I will ask you a question. I do not want you to consider it in delicate. You were several years ago a man of a good deal of property, were you not?

A. Yes, sir.

Q. Supposed to be pretty rich?

A. Yes, sir.

Q. You have lost your property?

A. Yes, sir.

Q. And I knew your necessities?

A. You knew my circumstances.

Q. Knew that you were poor?

A. Yes, sir.

Q. Do you understand that that was my reason for refunding you that money, because I thought you needed it?

A. I think that was the ground I put it on from the beginning.

Q. That was the way I put it.

By the CHAIRMAN:

Q. You had that agreement beforehand?

A. I did with an understanding that he should refund it to me, on the score that I could not pay out money; I was not able to.

By Mr. CLARKE:

Q. Had you ever been in the employ of Mr. Caldwell and Mr. Smith before receiving this post-office?

A. Never.

By the CHAIRMAN:

Q. You spoke of Governor Carney saying he would unseat Mr. Caldwell?

A. Yes, sir.

Q. Did he tell you why he would do it?

A. It was in relation to a grievance, as I said before, which occurred about six years ago, when he was a candidate for the United States Senate, and when Mr. Pomeroy and Mr. Ross were elected.

Q. What was that grievance?

A. The grievance, as he told it, was that, being a candidate for the United States Senate, a prominent candidate, he had enough votes to elect him lacking ten, and he said those ten votes had to be obtained, hit or miss; they must come; and he said he had placed \$25,000 in the hands of Len. T. Smith to procure him those votes; he said Len. Smith sold him out and kept his money.

Q. And he connected Mr. Caldwell with it?

A. He said that Mr. Caldwell was in that conspiracy; I cannot exactly recollect the term now that he used, but he blamed him with being connected with it in some way; that was his statement.

Q. At that time?

A. At that time, sir.

Q. Were Mr. Smith and Mr. Caldwell in partnership in business at the time of that election, six years ago?

A. I could not state certainly. I think they were not; they had been previously.

Q. Did he tell you to whom they had sold him out?

A. No, sir; he did not.

Q. But he said they had kept his money?

A. He said Len. T. Smith had.

Q. And that Mr. Caldwell was connected with it?

A. Yes, sir; he seemed to think that Mr. Caldwell was connected with it; he did not tell me how.

Q. Did you say he was excited at the time?

A. He seemed to be.

Q. Did he tell you Len. T. Smith had taken his money for that purpose, to secure these ten votes?

A. He said he gave it to him for that purpose and that he had taken it and kept it—sold him out. I told him I thought he was mistaken in the whole transaction.

Q. Was anything else said in that conversation?

A. Well, we talked about our private affairs; there was nothing touching this case or bearing on it.

Q. How did Governor Carney happen to make that statement to you? How was it brought up?

A. Governor Carney and myself have been adversely interested, I suppose, in a suit of long standing which has been once in the United States Supreme Court here.

Q. That is between you two?

A. It is incidentally between us two; the suit is not between Governor Carney and myself directly, but he is incidentally and adversely interested. We were talking of that and he said that I had had hard feelings toward him, and I admitted it and got to telling him why I had hard feelings toward him, and we had a conversation, I suppose, of half an hour before we struck into this line in regard to his candidacy for the senatorship six years ago.

Q. Had you been opposed to him then?

A. I was opposed to him then.

Q. How did this conversation connect itself with Mr. Smith and Mr. Caldwell? In what way did it lead to that?

A. I was known to have opposed him strongly in that thing, and he said that he had never given me just ground for the opposition I had evinced against him for the last ten years, and alluded to this candidacy for the United States Senate six years ago, and in connection with that it led right on to his stating how he missed it, and then it brought in that statement that he made.

Q. Did he tell you in that conversation how he was going to unseat Mr. Caldwell?

A. No, sir; he did not.

Q. Did he speak of the grounds or means by which it could be done?

A. He did not. He said to me all the powers could not hold him there; and another expression was, all the backing he could get could not keep him in his seat.

By Mr. HILL:

Q. At what hour of the night was this conversation?

A. It was in the afternoon, in the day-time.

Q. Had you and the governor been taking a glass of wine or something together? You know the best men do these things.

A. I know; the governor had invited Mr. Sherwood in principally, and me incidentally, to take a glass of beer with him.

Q. Did you take but one? Is that your recollection?

A. I do not think I drank over one; my opinion is that no one of the party drank but one.

By Mr. CARPENTER:

Q. Was Governor Carney at all intoxicated?

A. No, sir; I do not think he was.

Q. You were all duly sober?

A. Yes, sir; all duly sober. It was cold weather, and after drinking a glass of beer we sat down by a stove to warm, where the conversation took place.

TUESDAY, *January* 21, 1873.

THOMAS CARNEY recalled.

By Mr. CROZIER:

Question. Did you, pending the election of Senator six years ago, place in the hands of Len. T. Smith, to aid in your election or of that of any other man, any amount—

The WITNESS. Never one cent, and I want to state that what—

Mr. CARPENTER. One moment; wait. I object. We have no right to investigate that election.

Mr. LOGAN. Let him go on now, as the other side has been heard. It is due to Mr. Smith and Governor Carney. Let the explanation be made.

Mr. TRUMBULL. And then let it stop there.

The CHAIRMAN. Go on.

The WITNESS. Never one cent, sir. I never gave it and never said so to Mr. Clark in my life. I never made any such statement to him.

By Mr. CROZIER:

Q. If it is permitted, I will ask whether you did not at that time, or a short time before, owe Mr. Smith a considerable amount of money.

The CHAIRMAN. Ask him if an amount of money or debt was to be cancelled?

The WITNESS. Mr. Smith has had money on deposit at our house on several occasions. I do not remember whether he had at that time or not.

By Mr. CROZIER:

Q. If he had, was there any arrangement that the amount should be canceled between you?

A. None, whatever.

By the CHAIRMAN:

Q. Had you a conversation with Mr. Jeremiah Clark about this?

A. I do not remember any such conversation as Mr. Jeremiah Clark related here at all. I remember Mr. Clark. He, you should understand, has been one of the bitterest enemies I have had in Leavenworth. I had not spoken to him until about that time for years. I unfortunately live in a house that somebody else took from him on a mortgage. I bought of the other man, and he (Mr. Clark) and that other man are lawing over the house, and he blames me somehow as the occupant. We have not spoken for many years. He was that day coming around measuring the wall. The question is on the value of the improvements. I came out and we got to talking, and, as he says, we took a glass of beer. We were talking with the mechanic as to the wall and the character of the improvements. My attention was called to it yesterday, and I have listened to Mr. Clark to-day, and I cannot recall that Mr. Caldwell's name was mentioned by us. I will say emphatically it was not mentioned by us, to the best of my knowledge and belief, because I knew that he and Mr. Caldwell had been personal friends, and he was Mr. Caldwell's postmaster, and I do not think I would have been so discourteous as to hurt his feelings by speaking of Mr. Caldwell, when I knew they were political friends.

Q. Did you tell him at that time, or any other time, that you would unseat Mr. Caldwell?

A. No, sir; I have no recollection of it. Although I talked with Mr. Clark, I do not remember to have talked about anything of that kind at the time.

Q. Did you ever say anything like that to him?

A. No, sir; not to my recollection.

Q. If you had, would you remember it?

A. I think so, and I think he would have been the last man I would have mentioned it to.

TUESDAY, *January 21, 1873.*

LEONARD T. SMITH recalled.

By the CHAIRMAN:

Question. I will ask you, Mr. Smith, whether, at the time of the election six years ago, just referred to, Mr. Caldwell placed in your hands \$25,000, or any other sum, to procure votes for him?

Mr. CARPENTER. I now interpose an objection. We have had the charge and the refutation.

The CHAIRMAN. I will submit it to the committee.

The WITNESS. There is only one object for which I would like to answer that.

The CHAIRMAN. Wait, Mr. Smith; we will clear the room a few minutes.

(The committee-room was closed for deliberation; and after some time so spent, the door was re-opened.)

The CHAIRMAN. Gentlemen, the committee are evenly divided upon the propriety of that question, and therefore the question falls, and will not be asked.

TUESDAY, *January 21, 1873.*

THOMAS P. FENLON recalled.

By Mr. CROZIER:

Question. Were you in Leavenworth at the time of the banquet?

Answer. The senatorial banquet?

Q. Yes.

A. I was.

Q. State what sort of a demonstration, in a few words, that was.

A. It was a very large gathering; a very enthusiastic assemblage of the people in honor of the legislature the people had invited down there, in return for the legislature having elected one of their citizens.

By Mr. CLARKE:

Q. Plenty of wine?

A. My impression is there was some.

By the CHAIRMAN:

Q. Any whisky?

A. I think nothing stronger than wine.

By Mr. CLARKE:

Q. Did that add to the enthusiasm?

A. I do not know. Your experience in that ought to teach you without asking me.

By the CHAIRMAN:

Q. Was there a supper?

A. Yes, sir.

Q. How many sat down; how many were fed?

A. I think four or five hundred; all who were present.

By Mr. CARPENTER:

Q. I would ask if they had a good supper?

A. Leavenworth is celebrated for good suppers and good liquors.

By the CHAIRMAN:

Q. Were you surprised that there was a large gathering to eat a good supper?

A. No, sir.

By Mr. CROZIER:

Q. Was that a large and enthusiastic demonstration of the people?

A. Yes, sir.

By Mr. CALDWELL:

Q. What kind of a demonstration was made upon my return?

A. The people seemed very much rejoiced. There was the booming of cannon, the waving of flags, &c.

By the CHAIRMAN:

Q. Who paid the expenses of the supper?

A. I do not know. They were paid by the citizens in general, I believe.

By Mr. CARPENTER:

Q. Leavenworth is not in the habit, I suppose, of inviting people to supper and then asking them to pay the bill?

A. No, sir.

By Mr. CROZIER:

Q. Were you in the legislature last winter?

A. Yes, sir.

Q. Were you there at the time this investigation was ordered?

A. I was.

Q. Do you know the gentlemen that were appointed on that committee?

A. Yes, sir; I did know them all.

Q. Were they friendly or otherwise to Mr. Caldwell?

A. They were quite unfriendly.

Q. How was Mr. Snoddy?

A. Bitterly opposed to Mr. Caldwell.

By Mr. CALDWELL:

Q. Both when I was elected and during the election?

A. Yes, sir; so I understood.

Q. And is yet?

A. That I do not know.

By Mr. CROZIER:

Q. Were all the members of the committee?

A. Yes, sir; as the report will show, they were all against him.

Q. Was not Mr. Snoddy a candidate for the Senate at the time Mr. Caldwell was elected?

A. Yes, sir; he was voted for by a good many members.

By the CHAIRMAN:

Q. How was that committee appointed; was it a joint committee?

A. Yes, sir. The resolution originated in the house of representatives, and a joint committee was appointed.

Q. Was the committee appointed by the presiding officers of the two houses?

A. Yes, sir; I think so.

Q. Who was the speaker of the house?

A. Mr. S. A. Cobb, the member of Congress elect.

Q. Who was the president of the senate?

A. Mr. Elder.

Q. Were they hostile to Mr. Caldwell?

A. I do not know.

Q. How did it happen that the whole committee was hostile?

A. I do not know.

Q. Was the whole legislature hostile to him?

A. They seemed to be.

Q. The whole legislature?

A. A great many of them.

Q. Upon what ground was that?

A. I have not the slightest idea.

Q. Did the hostility grow out of the impression that he was elected by corrupt means?

Mr. CARPENTER. I ask to have the room cleared if that question is pressed.

The CHAIRMAN. I will withdraw it. I will not press the question if it is objected to.

By Mr. CROZIER:

Q. Were all who voted for that investigation enemies of Mr. Caldwell?

A. Certainly not. I voted for it myself.

Q. Do you know of others voting for it who were not?

A. I do not now recall them.

TUESDAY, *January 21*, 1873.

S. J. LANGDON sworn and examined.

By Mr. CROZIER:

Question. Where do you reside?

Answer. In Crawford County, Kansas.

Q. Were you a member of the legislature of Kansas in the winter of 1871?

A. I was.

Q. State if you know of any offers or promise of money to members of the legislature for votes for Senator.

A. I believe I know of but one offer that was made. I have heard of some. I know of but one.

Q. What one do you know about?

A. It was an offer by Mr. Clarke——

Mr. TRUMBULL. I object to going into an investigation of Mr. Clarke, and insist that the examination shall be confined to the election of Mr. Caldwell.

The CHAIRMAN. I will ask the counsel if this question will be connected with anything that has been said about Mr. Langdon, or contradict any statement by Mr. Clarke.

Mr. CROZIER. No, sir.

The CHAIRMAN. Then it will not be proper.

By Mr. CROZIER :

Q. Did you vote for Mr. Caldwell ?

A. No, sir; I did not.

Q. Did you take the oath that has been talked about here ?

A. No, sir; I did not.

WASHINGTON, D. C., *Saturday, January 25, 1873—10 a. m.*

Mr. CROZIER. Mr. Chairman : I desire now to offer the records in the house and senate journals of Kansas of the election of Mr. Caldwell by the legislative assembly of that State, as I previously gave notice, (p. 347.)

The CHAIRMAN. They will be inserted in the record.

The proceedings of the two houses of the legislative assembly of Kansas in the election of Alexander Caldwell in January, 1871, as shown in the senate journal and house journal, are as follows:

FIRST DAY'S PROCEEDINGS—SENATE.

TOPEKA, *January 24, 1871.*

* * * * *

Election of United States Senator.

The hour having arrived, designated by the resolution, for the election of a United States Senator to succeed E. G. Ross from the 4th day of March proximo, to the 4th day of March, A. D. 1877,

The president of the senate announced that as each senator's name is called by the secretary, he will arise and vote for the person of his choice for United States Senator.

The roll was called with the following result :

Alexander Caldwell, of Leavenworth County, received 8 votes.

Sidney Clarke, of Douglas County, received 6 votes.

S. J. Crawford, of Lyon County, received 5 votes.

E. G. Ross, of Douglas County, received 1 vote.

M. R. Laughlin, of Crawford County, received 1 vote.

T. H. Walker, of Shawnee County, received 1 vote.

W. A. Phillips, of Saline County, received 1 vote.

Jas. D. Snoddy, of Linn County, received 1 vote.

W. Shannon, of Douglas County, received 1 vote.

Gentlemen voting for Alexander Caldwell were :

Messrs. Haas, Hogeboom, Kellogg, McLellan, Miller, Sears, Van Doren, and Wood.

Gentlemen voting for Sidney Clarke were :

Messrs. Logan, Price, Rockefeller, Vincent, Whitney, and Worden.

Gentlemen voting for S. J. Crawford were :

Messrs. Cracraft, Fitzpatrick, Prescott, Stotler, and Stover.

Mr. Bower voted for E. G. Ross.

Mr. Murdock voted for T. H. Walker.

Mr. Moore voted for W. R. Laughlin.
 Mr. Snoddy voted for W. A. Phillips.
 Mr. Topping voted for Jas. D. Snoddy.
 Mr. Nelson voted for W. Shannon, sr.

On motion,
 The senate adjourned.

GEO. C. CROWTHER,
Secretary.

FIRST DAY'S PROCEEDINGS—HOUSE.

TUESDAY, *January 24, 1871.*

* * * * *

The house then proceeded to the election of United States Senator.
 Mr. Lindsay nominated Colonel J. D. Snoddy, of Linn County.
 Mr. Strickler nominated Hon. Sidney Clarke, of Douglas County.
 Mr. Overstreet nominated Hon. Samuel J. Crawford, of Lyon County.
 Mr. Barber nominated Hon. E. G. Ross, of Douglas County.
 Mr. Welch nominated Alexander Caldwell, of Leavenworth County.
 The roll was called, with the following result:

Mr. Caldwell received 30 votes.
 Mr. Crawford received 22 votes.
 Mr. Clarke received 21 votes.
 Mr. Ross received 7 votes.
 Mr. Snoddy received 11 votes.
 Mr. Fenlon received 2 votes.
 Mr. Vaughan received 1 vote.
 Mr. Laughlin received 1 vote.
 Mr. McVicar received 1 vote.
 Mr. Sells received 1 vote.
 Mr. Bennett received 1 vote.

Representatives voting for Mr. Caldwell were:

Messrs. Ashby, Babbitt, Bayers, Bennett, Burns, Butts, Cable, Cawker, Colley, Crook, Fenlon, Gandy, Higday, Howell, Kennady, Legate, Luce, T. H. Moore, McCartney, McLaughlin, Parker, Peckham, Pinkerton, Simons, Welch, Whittaker, A. C. Williams, J. S. Williams, W. Williams, Willitts.

Representatives voting for Mr. Crawford were:

Messrs. Bogart, Buzick, Campbell, Clapp, Friend, Hill, Hudson, Knowlton, Linn, Metcalf, Mowry, A. A. Moore, Olson, Osborn, Overstreet, Page, Phinney, Puffer, Redfield, J. M. Steele, Veale, S. M. Wood.

Representatives voting for Mr. Clarke were:

Messrs. Barnes, Benson, Bond, Fisher, Griffin, Ingle, Irwin, King, Manning, Mahr, Melville, Murphy, Reynolds, W. H. Smith, Snead, Speer, Strickler, Thompson, Van Natta, A. S. Wilson, J. C. Wilson.

Representatives voting for Mr. Ross were:

Messrs. Barber, Haskell, D. B. Johnson, R. Johnson, McEckron, Warner, Whistler.

Representatives voting for Mr. Snoddy were:

Messrs. Brice, Carpenter, Crocker, Green, Libby, Lindsay, Sells, Shattuck, H. B. Smith, Webb, and Mr. Speaker Simpson.

Representatives voting for Mr. Fenlon were:

Messrs. Butler, Churchill.

Representative Darling voted for Mr. Vaughan.

Representative Langdon voted for Mr. Laughlin.

Representative Morris voted for Mr. McVicar.

Representative C. S. Steele voted for Mr. Sells.

Representative G. W. Wood voted for Mr. Bennett.

There being no election, on motion, the house adjourned.

SECOND DAY'S PROCEEDINGS—SENATE.

* * * * *

Message from the house.

The following message from the house of representatives was received and read :

Mr. President: I am instructed to inform the senate that the house of representatives is now ready to receive the senate in joint convention for the purpose of electing a United States Senator.

A. R. BANKS,
Chief Clerk.

On motion, the senate repaired to the house of representatives to meet in joint convention for the election of a United States Senator to succeed E. G. Ross from the 4th day of March proximo, to the 4th day of March, A. D. 1877.

SECOND DAY'S PROCEEDINGS—JOINT CONVENTION.

HALL OF THE HOUSE OF REPRESENTATIVES, *Topeka, January 25, 1871—12 o'clock m.*

This being the day designated by the Congress of the United States for the convening of the legislature in joint assembly, for the purpose of electing a United States Senator in accordance with an act passed at the first session of the Thirty-ninth Congress, entitled "An act to regulate the times and manner of holding elections for Senators in Congress," approved July 25, 1866, the senate and house of representatives of the State of Kansas convened in joint assembly at 12 o'clock meridian for the purpose of electing a United States Senator for six years, in pursuance of the said act of Congress.

Lieutenant-Governor P. P. Elder, president of the senate, called the joint assembly to order.

The roll of the senate was called by the secretary of the senate.

The following gentlemen were present and answered to their names:

Messrs. Bower, Cracraft, Fitzpatrick, Haas, Hogeboom, Kellogg, Logan, McLellan, Miller, Moore, Murdock, Nelson, Prescott, Price, Rockefeller, Sears, Snoddy, Stotler, Stover, Topping, Van Doren, Vincent, Whitney, Wood, and Worden ;

Being a quorum of the senate.

The roll of the house of representatives was called by the chief clerk.

The following gentlemen were present and answered to their names:

Messrs. Ashby, Babbitt, Barnes, Barber, Bayers, Bennett, Benson, Bogart, Bond, Brice, Burns, Butts, Butler, Buzick, Cable, Carpenter, Cawker, Campbell, Churchill, Clapp, Colley, Crook, Crocker, Darling, Fenlon, Fisher, Friend, Gandy, Green, Griffin, Haskell, Hill, Higday, Howell, Hudson, Ingle, Irwin, D. B. Johnson, R. Johnson, Kennady, King, Knowlton, Langdon, Legate, Libby, Lindsay, Linn, Luce, Manning, Mahr, Melville, Metcalf, Mowry, Morris, A. A. Moore, T. H. Moore, Murphy, McCartney, McEckron, McLaughlin, Olson, Osborn, Overstreet, Page, Parker, Peckham, Phinney, Pinkerton, Puffer, Redfield, Reynolds,

Sells, Shattuck, Simons, H. B. Smith, W. H. Smith, Snead, Speer, C. S. Steel, J. M. Steele, Strickler, Thompson, Van Natta, Veale, Warner, Webb, Welch, Whittaker, Whistler, A. S. Wilson, J. C. Wilson, A. C. Williams, J. L. Williams, W. Williams, Willits, G. W. Wood, S. M. Wood, and Mr. Speaker Simpson;

Being a quorum of the house.

The president of the joint assembly announced that a quorum of the two houses were present, convened in joint assembly for the purpose of reading the journals of the two houses, and electing a Senator in the United States Senate for six years.

The secretary of the senate and chief clerk of the house read their respective journals of the proceedings of yesterday, relating to the election of United States Senator

The PRESIDENT. The clerks agree in their tallies.

Whole number of votes cast, 123.

Necessary to a choice, 62.

No person having received a majority of all the votes cast, there is no choice in the action of the two houses, and the joint assembly will proceed to the election of a United States Senator for six years from the 4th of March next.

Mr. Strickler withdrew the name of Sidney Clarke.

Mr. Snoddy moved that the joint assembly now proceed to the election of a United States Senator.

Which motion prevailed.

Mr. Legate moved that, as the roll is called, each member of the joint assembly rise in his place and announce the name of the candidate for whom he casts his vote.

Which motion prevailed.

Mr. Nelson nominated Hon. Wilson Shannon, senior.

The rolls of the senate and house of representatives were called by the secretary of the senate and chief clerk of the house, with the following result:

Mr. Caldwell received 87 votes.

Mr. Crawford received 34 votes.

Mr. Shannon received 2 votes.

Senators voting for Mr. Caldwell were:

Messrs. Fitzpatrick, Haas, Hogeboom, Kellogg, Logan, McLellan, Miller, Murdock, Prescott, Price, Rockefeller, Sears, Van Doren, Vincent, Wood, and Worden.

Representatives voting for Mr. Caldwell were:

Messrs. Ashby, Babbitt, Barnes, Bayers, Bennett, Benson, Bond, Burns, Butts, Butler, Cable, Cawker, Churchill, Clapp, Colley, Crook, Darling, Fenlon, Fisher, Friend, Gandy, Green, Griffin, Higday, Howell, R. Johnson, Kennady, King, Legate, Lindsay, Luce, Manning, Mahr, Melville, Metcalf, Mowry, A. A. Moore, T. H. Moore, Murphy, McCartney, McEckron, McLaughlin, Olson, Page, Parker, Peckham, Phinney, Pinkerton, Puffer, Redfield Reynolds, Simons, W. H. Smith, Snead, Speer, C. S. Steel, J. M. Steele, Strickler, Thompson, Van Natta, Veale, Warner, Welch, Whittaker, Whistler, A. S. Wilson, J. C. Wilson, A. C. Williams, J. L. Williams, W. Williams, and Willits.

Senators voting for Mr. Crawford were:

Messrs. Bower, Cracraft, Moore, Snoddy, Stotler, Stover, Topping, Whitney.

Representatives voting for Mr. Crawford were:

Messrs. Barber, Bogart, Brice, Buzick, Carpenter, Campbell, Crocker, Haskell, Hill, Hudson, Ingle, Irwin, D. B. Johnson, Knowlton, Langdon,

Libby, Linn, Morris, Osborn, Overstreet, Sells, Shattuck, H. B. Smith, Webb, S. M. Wood, and Mr. Speaker Simpson.

Senator Nelson voted for Mr. Shannon.

Representative G. W. Wood voted for Mr. Shannon.

The PRESIDENT. The clerks report that their tallies agree.

Whole number of votes cast, 123.

Necessary to a choice, 62.

Mr. Alexander Caldwell, of the county of Leavenworth, having received a majority of all the votes cast by the joint assembly of the legislature, I declare him duly elected United States Senator for the State of Kansas, from the 4th day of March proximo, to the 4th day of March, A. D. 1877.

In accordance with the result of the proceedings of the joint convention for the election of a United States Senator, the president of the senate and the speaker of the house of representatives subscribed the following certificate:

We do hereby certify that the senate and house of representatives of the State of Kansas, in joint convention assembled, at Topeka, the capital of said State, did, on the first Wednesday after the fourth Tuesday in January, A. D. 1871, elect Alexander Caldwell, of the county of Leavenworth, to the office of United States Senator of the State of Kansas, to succeed E. G. Ross, from the 4th day of March proximo, to the 4th day of March, A. D. 1877, in pursuance of an act of the Congress of the United States in such cases made and provided.

P. P. ELDER,
President of the Senate.

Attest:

GEO. C. CROWTHER,
Secretary of the Senate.

B. F. SIMPSON,
Speaker House of Representatives.

Attest:

ALEX. R. BANKS,
Chief Clerk House of Representatives.

On motion,
The joint convention dissolved.

SATURDAY, January 25, 1873.

G. G. GAGE sworn and examined.

By the CHAIRMAN:

Question. Where do you reside?

Answer. At Topeka.

Q. Were you in Topeka during the senatorial election of which we are inquiring?

A. I was.

Q. As a member of the legislature?

A. I was.

Q. Were you taking a part in that election?

A. I was not.

Q. State to the committee what you know, if anything, in regard to the use of money or other corrupt means on the part of Mr. Caldwell or his friends to procure his election.

A. I do not know of any money being used.

Q. You have no personal knowledge of it?

A. No, sir.

Q. Did you hear his friends talk on the subject?

A. Mr. Caldwell's friends?

Q. Yes, sir.

A. I do not know that I did. I heard his friends—yes, sir, and outsiders.

Q. Did you hear him say anything about it at any time?

A. No, sir.

Q. You say "outsiders." Did you hear Mr. Len. Smith say anything about it?

A. No, sir; I do not remember that I did.

Q. Or Mr. George Smith?

A. No, sir.

Q. Or Mr. Tom Anderson?

A. No, sir.

Q. Or Governor Carney?

A. No, sir.

Q. Whom did you hear talking about it?

A. I did not hear any of the friends of Mr. Caldwell, or friends of any other candidate, that I know of, talk about it. It was only outside talk that money was being used. I heard that by outsiders.

Mr. CLARKE. Will the chairman ask in reference to Mr. Clapp, a member of the legislature from Johnson County?

By the CHAIRMAN:

Q. Did you know Mr. Clapp, a member of the legislature from Johnson County?

A. I did, sir.

Q. Did you hear him say anything about money?

A. Yes, I did.

Q. What was it?

A. He said that Mr. Len. Smith had offered him \$1,200 if he would vote for Mr. Caldwell for United States Senator.

Q. When did that conversation take place?

A. The day before the first vote.

Q. Was anybody else present?

A. I do not think there was at the time.

Q. How did he come to make that statement to you?

A. He and I were personal friends. We had been boys together. He had lived in Topeka two or three years, and had moved down to Johnson County some two or three years before, and had been elected a member, and sent up from Johnson County as a member.

Q. Had he taken the money, did he say?

A. He had not.

Q. Had he refused it?

A. I do not think he had at that time.

Q. Did he have it under consideration?

A. He said he had agreed to see Mr. Smith again that night.

Q. Did you ever have a conversation subsequently with him?

A. After the senatorial election?

Q. After this conversation, did you have another with him on that subject?

A. I do not remember that I did particularly on that subject. I saw him every day.

Mr. CROZIER. It is understood that this testimony of statements of members of the legislature is all taken subject to our objection.

By the CHAIRMAN:

Q. Did you ever hear him say anything more about it?

A. After the election.

Q. After this first conversation, did you and he ever talk about it again?

A. Yes, sir; he spoke to me about seeing Mr. Smith.

Q. What did he say?

By Mr. CROZIER:

Q. Was that before the election?

A. Yes, sir; I think it was the night before the election; the night before they were going into the informal ballot—the ballot of the separate houses.

By the CHAIRMAN:

Q. What did he say?

A. He said that Mr. Smith had offered him \$1,200 if he would vote for Mr. Caldwell, in case Mr. Caldwell was elected; otherwise he would pay him \$800 if he would vote for Mr. Caldwell; and then in case Mr. Caldwell was elected he would pay him the other \$400.

Q. Did he say they had agreed upon it?

A. No, sir; he did not.

Q. What did he say?

A. He said he hated to do it; that he was elected for Mr. Crawford as a delegate. He said he needed the money, but he said he hated to vote for him.

Q. How did he vote?

A. He voted for Mr. Crawford.

Q. Did he vote for Mr. Crawford in the joint convention?

A. No, sir; he voted for Mr. Caldwell in the joint convention.

Q. That was the next day after the conversation?

A. Yes, sir.

By Mr. ANTHONY:

Q. Was this conversation before the first vote?

A. Yes, sir.

By the CHAIRMAN:

Q. The first conversation was before the first vote, and the last one between the two votes?

A. Yes, sir.

Q. Was that all that was said at that time?

A. Yes, sir; all that I remember.

Q. Did you ever have a subsequent conversation with him?

A. I do not know that I did. After the election?

Q. Yes.

A. I do not know that I did on the subject of that election at all. I saw him there for several days.

Q. When you had this conversation with him, the night before the joint convention, did he say there was any arrangement to see Mr. Smith again before the vote took place?

A. He was to see Mr. Smith that night.

Q. Do you know whether he did see him or not?

A. I do not.

Q. Did you see Mr. Smith about there?

A. I saw Mr. Smith about there, and saw Mr. Clapp going into Mr. Smith's room, but I do not know whether he saw him or not.

Q. Was it after that conversation that he went into his room?

A. Yes, sir; it was after dark.

Q. Did you see him after he came out?

A. I do not think I saw him that night after he came out.

Q. Is that all you heard from Mr. Clapp at any time on that subject?

A. I think it is. That subject never was mentioned afterwards.

Q. Do you know whether, about that time, or shortly after that time, Mr. Clapp was in possession of any considerable amount of money?

A. I do not.

Q. You do not know anything on that subject?

A. No, sir.

Q. Did you hear any other members of the legislature say anything about it?

A. No, sir.

Q. Is this the single instance?

A. The single instance.

Q. Is there any other fact or conversation which you ought to tell under your oath?

A. I do not remember of anything. I cannot call anything to mind now to touch the point.

By Mr. TRUMBULL:

Q. You stated first, Mr. Gage, that all you had heard was from outsiders. Now you tell us you heard directly from a member of the legislature that he was offered money.

A. About the use of money—it was the common talk outside.

Q. But you said it was entirely outside.

The CHAIRMAN. Perhaps in justice to the witness I should say that he seemed to mean outside of Mr. Caldwell's friends.

Mr. TRUMBULL. The committee want to get at the exact facts. (To the witness.) I want you to state to the committee all you heard about the use of money from any member of the legislature, or any man there who was electioneering for Mr. Caldwell.

A. I have told the committee as far as I know, unless it would be this outside matter that A, B, or C said that, in his opinion, \$50,000 or \$60,000 was being used, but nothing that I know of, or that he knew.

Q. When you first started in you thought it was all by outsiders, but it turns out here that what you heard was also by a member of the legislature.

A. That he had been offered money, but I do not know that any money was used.

Q. Did you know of any offers of money by statements of others outside of Mr. Clapp?

A. No, sir; I do not know of offers, directly or indirectly, outside of Mr. Clapp. I only know that by his telling me that.

Q. Do you know of any other inducements, promises of office, or anything of the sort?

A. No, sir; I do not. I was not taking any interest in the matter. Mr. Clapp told me this as an old friend.

Q. You had been schoolmates together?

A. No, sir; but boys together, and intimate friends.

By Mr. CLARKE:

Q. I think you said Mr. Clapp came to you to consult about this transaction?

Mr. CROZIER. It is understood that this testimony of statements of members of the legislature is all taken subject to our objection.

By the CHAIRMAN:

Q. Did you ever hear him say anything more about it?

A. After the election.

Q. After this first conversation, did you and he ever talk about it again?

A. Yes, sir; he spoke to me about seeing Mr. Smith.

Q. What did he say?

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A. Yes, sir.

By the CHAIRMAN:

Q. The first conversation was before the first vote, and the last one between the two votes?

A. Yes, sir.

Q. Was that all that was said at that time?

A. Yes, sir; all that I remember.

Q. Did you ever have a subsequent conversation with him?

A. I do not know that I did. After the election?

Q. Yes.

A. I do not know that I did on the subject of that election at all. I saw him there for several days.

Q. When you had this conversation with him, the night before the joint convention, did he say there was any arrangement to see Mr. Smith again before the vote took place?

A. He was to see Mr. Smith that night.

Q. Do you know whether he did see him or not?

A. I do not.

Q. Did you see Mr. Smith about there?

A. I saw Mr. Smith about there, and saw Mr. Clapp going into Mr. Smith's room, but I do not know whether he saw him or not.

Q. Was it after that conversation that he went into his room?

A. Yes, sir; it was after dark.

Q. Did you see him after he came out?

A. I do not think I saw him that night after he came out.

Q. Is that all you heard from Mr. Clapp at any time on that subject?

A. I think it is. That subject never was mentioned afterwards.

Q. Do you know whether, about that time, or shortly after that time, Mr. Clapp was in possession of any considerable amount of money?

A. I do not.

Q. You do not know anything on that subject?

A. No, sir.

Q. Did you hear any other members of the legislature say anything about it?

A. No, sir.

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The CHAIRMAN. Perhaps in justice to the witness I should say that he seemed to mean outside of Mr. Caldwell's friends.

Mr. TRUMBULL. The committee want to get at the exact facts. (To the witness.) I want you to state to the committee all you heard about the use of money from any member of the legislature, or any man there who was electioneering for Mr. Caldwell.

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Q. Do you know of any other inducements, promises of office, or anything of the sort?

A. No, sir; I do not. I was not taking any interest in the matter. Mr. Clapp told me this as an old friend.

Q. You had been schoolmates together?

A. No, sir; but boys together, and intimate friends.

By Mr. CLARKE:

Q. I think you said Mr. Clapp came to you to consult about this transaction?

A. Yes, sir; he asked me, or told me, rather, what he had been offered.

Q. How old a man is Mr. Clapp?

A. I think Mr. Clapp is perhaps about 30 now.

Q. Where does he reside now?

A. I do not know whether he resides in Johnson County or in New York. His mother is a widow lady, living in New York, and I have heard that he has gone back there to live with her.

Q. That he has left the State?

A. Yes, sir; I have heard that; but I cannot say whether he is living in Johnson County or New York.

Q. You spoke of seeing Mr. Clapp pass into Mr. Smith's room. What room was that?

A. I do not remember the number; it was in the Tefft House.

Q. Did you see him go into Mr. Caldwell's rooms?

A. I do not know that I did. I think Mr. Caldwell's and Mr. Smith's rooms were together. I think they occupied the same room, if I remember.

By Mr. CROZIER:

Q. Where do you reside?

A. In Topeka.

Q. How long have you lived there?

A. Seventeen years next May.

Q. What is your business?

A. I have followed manufacturing brick for fourteen years.

Q. On what floor of the Tefft House was Mr. Smith's room?

A. I think on the second floor above the office.

Q. In what direction?

A. It is my impression it was north of the office.

Q. Do you know where Mr. Sidney Clarke's room was?

A. Yes, sir; I think I do; I think I was in Mr. Clarke's room after the election was over.

Q. Where was Mr. Smith's room in reference to that?

A. If I remember, Mr. Clarke's room was about 88, or something like that, at the west end of the hall—the further end of the hall—in that building.

Q. Was Mr. Smith's room in that same hall?

A. No, sir; you had to pass up a flight of stairs to Mr. Smith's room.

Q. Had you been in Mr. Smith's rooms before that?

A. I think I had.

Q. Are you acquainted with Mr. Smith?

A. I have met him.

Q. Were you acquainted with him then?

A. I do not know that I had ever spoken to him.

Q. How did you happen to go in there, if you had not spoken to him?

A. I went there with friends. I was talking with friends, and it was a kind of public room.

Q. When Mr. Clapp proposed to you or stated that he had been offered \$400 and \$800, did you advise him to take it?

A. No, sir.

Q. Did you advise him about it?

A. I did not.

Q. Did he ask you whether he ought to take it?

A. I think he did.

Q. What did you reply?

.Q.

.Q. .Q. .Q.

.Q. .Q. .Q.

.Q. .Q. .Q.

A. I told him to do as he thought best. I had no interest in the matter and did not care a straw who was elected Senator. I did not take any part in it.

Q. Which side of the hall was Mr. Smith's room on?

A. I cannot describe it exactly.

Q. Was it on the north side or the south side of the hall?

A. The halls run different ways there.

Q. Was Mr. Smith's room on the north or south side of the hall on which it opened?

A. It was on the east side, it is my impression, as you go upstairs. There was a general public room there, as I remember, that there were a good many in and out of.

Q. Is that what you mean by Mr. Smith's room?

A. No, sir; it was south of that.

Q. Did it open out of that room?

A. Yes, sir; south.

Q. Was not that Mr. Caldwell's room?

A. I do not know.

Q. You do not know much about it?

A. No, sir. I know just as much about it as any one not having any interest in it, but only at the request of a friend going up. I could not say how many rooms Mr. Smith or Mr. Caldwell occupied there.

By Mr. CLARKE:

Q. Do you know where the ladies' parlor is—the common parlor of the Tefft House?

A. At the head of the stairs. It is my impression that that was Mr. Smith's room.

By Mr. CARPENTER:

Q. The public parlor?

A. I think that is the room which Mr. Smith occupied.

By Mr. CROZIER:

Q. Was there any bed in it?

A. No, sir, I think not.

Q. Was it a public room?

A. Yes, sir.

Q. A great many men going in and out?

A. Yes, sir.

Q. That is where Mr. Clapp saw Mr. Smith?

A. No, sir. When Mr. Clapp went with Mr. Smith, they stepped into a room south of that, if I remember.

Q. Opening off of that?

A. Mr. Smith opening a door and stepping into a room.

Q. Did you wait until he returned?

A. No, sir; I do not think I saw him again that night. That was about 8 o'clock.

Q. Were there not a good many going in and out of that room?

A. Yes, sir; quite a good many, if I remember.

By Mr. CLARKE:

Q. Was not this room also occupied by Mr. Caldwell?

A. I could not swear positively whether it was or not.

WASHINGTON, D. C., *Saturday, January 25, 1873.*

FRANK H. DRENNING sworn and examined.

By Mr. CROZIER:

Question. Where do you reside?

Answer. At Wathena, Kansas.

Q. In what county?

A. Doniphan County.

Q. How long have you lived there?

A. About thirteen years.

Q. Were you a member of the legislature the winter that Mr. Caldwell was elected Senator?

A. No, sir.

Q. Were you at Topeka during that canvass?

A. Yes, sir; I was there.

Q. Do you know Mr. William Spriggs?

A. Yes, sir.

Q. Did you see him up there?

A. Yes, sir.

Q. Whose election did you favor at that time?

A. I went to Topeka to favor the election of Governor Carney; but, about the time I got to Topeka, Mr. Carney was off the track.

Q. Then what did you do?

A. He solicited me to remain there and support Mr. Caldwell.

Q. You supported Mr. Caldwell?

A. Yes, sir. He solicited me to do what I could to secure his election.

Q. Were you an active supporter of Mr. Caldwell?

A. Well, I don't know. Perhaps others are better judges than I. I did what I could.

Q. What do you know about a committee of six in the interest of Mr. Caldwell there?

A. Well, I didn't know there was any such thing as a committee. I didn't know of any being at Topeka.

Q. Were you a member of any committee of six, in the interest of Mr. Caldwell?

A. None, except I was appointed by myself. There were a few of Mr. Caldwell's friends in the habit of meeting, from time to time, there, but they did not constitute any committee.

Q. Were there more than six in the habit of meeting and talking it over?

A. Yes, sir; sometimes ten or twenty, sometimes two or three gentlemen.

Q. Where were these meetings held?

A. In different places. When there was a large number they were in a large room occupied by Governor Carney and Mr. Fenlon.

Q. What room?

A. A front room.

Q. Were you there often yourself?

A. I was about there most of the time.

Q. Were you in the room frequently?

A. Yes, sir; quite often.

Q. What did you hear, if anything, at the times that you were in that room, and those gentlemen were present, about the use of money in that election?

A. I don't remember that I ever heard anything. I may possibly

have heard some of those remarks—what I would call general rumor; but I don't remember. I could not trace it back to any specific statement of any one.

Q. Did you hear reports made to that committee by Len. T. Smith, Mr. McDowell, or Tom Anderson, about the price of votes?

A. No, sir; I don't think I did.

Q. Did you hear anything on a subject of that kind?

A. My recollection is that I heard statements like this: that when we were talking matters over certain friends of Mr. Caldwell would state that such and such parties wanted something. There was not, that I recollect of, anything particular or anything specific stated about any use of money.

Q. Was not that the place where the friends of Mr. Caldwell rendezvoused, for the purpose of talking over the general subject of his candidacy and the election?

A. Yes, sir; in that building; sometimes in one room and sometimes in another.

Q. Did you hear Len. Smith, at that election, and in that room, say substantially that this man was too high—mentioning some person—and he would come down if you waited a little?

A. I do not think I ever heard Mr. Smith make any such statement.

Q. Did you ever hear Mr. McDowell make such a statement?

A. No, sir.

Q. Or Tom Anderson?

A. No, sir; Tom Anderson was not around the room very often. I saw him there sometimes, but he was not there very many times.

Q. Were you in very frequent consultation with these gentlemen I have named?

A. Yes, sir; every little while during the whole time.

Q. You said you knew Mr. Spriggs?

A. Yes, sir.

Q. Was he up there?

A. Yes, sir.

Q. Did you ever tell Mr. Spriggs substantially this: that you had put money in the hands of the treasurer, or in the treasury—the old treasury of Nemaha County—two thousand dollars, for the votes of members from that county?

A. I never told Mr. Spriggs any such thing.

Q. Or anything like it?

A. No, sir; nor anything like it, to him or any other person.

Q. Did you do any such thing?

A. No, sir.

Q. Do you know anybody who did?

A. No, sir. I will state further, I have no recollection of having a conversation of that kind with Mr. Spriggs, but I may, for I recollect talking to others at different times about this election. Perhaps afterward I may have made a statement to Mr. Spriggs about these rumors, or that I had heard that somebody had said that such and such things had been done; but to tell that I did it, or had any money in my possession at any time during the senatorial election of Mr. Caldwell of my own, except perhaps some \$50, to pay my own expenses, I never made any such statement to any human being.

Q. Whose was the \$50 you mention?

A. It was my own, that I had taken with me to pay my ordinary expenses.

Q. Did you say to Mr. Spriggs substantially this: that Mr. Caldwell

had been a little slow in obtaining the votes or providing for the votes of the two members from Nemaha County; that if he had been a little sooner he could have got them for \$500 each?

A. I have no recollection of making any such statement.

Q. Did you ever make such a statement?

A. I don't think I did.

Q. If you did, was it true?

A. I will say I did not make it. I will say that I might have stated something similar as a rumor, but not that I knew it. I had no personal knowledge of it whatever.

Q. Did you say, or substantially say, that you had \$7,000 placed in your hands, or had the control of \$7,000, for the Doniphan County delegation?

A. I never made any such statement to any human being under heaven.

Q. Did you have the control of \$7,000 for that delegation?

A. No, sir; nor any other sum, except the sum I have indicated as my own.

By the CHAIRMAN:

Q. You say you were not a member of the legislature, but you went up there as a friend of Governor Carney?

A. Yes, sir.

Q. Had Governor Carney requested you to go there?

A. Yes, sir. He wrote me a letter some time before—in fact, he had written me two or three letters in the fall. He wrote me one two or three days before the legislature met.

Q. In that letter did he say he was going to be a candidate?

A. Yes, sir.

Q. He asked you to be there?

A. Yes, sir.

Q. To assist him?

A. To assist him.

Q. When you went there you found him there?

A. Yes, sir.

Q. What did he tell you; that he was going to be a candidate, or was off the track?

A. He told me he was off the track. I saw his card published in the paper.

Q. Did he tell you how he came to be off the track?

A. He stated something like this; that Mr. Caldwell was a candidate, and he did not feel like going into the contest against him, for the reason that it would, perhaps, defeat both, and he thought Leavenworth ought to have a Senator.

Q. Did he tell you anything about a contract for \$15,000, in consideration of which he withdrew?

A. No, sir; he never mentioned it.

Q. Did Mr. Len. Smith ever mention it to you?

A. No, sir.

Q. Or Mr. Caldwell?

A. No, sir; my recollection is I never heard anything of the arrangement until long after his election.

Q. When he told you he was off the track, did you at once consent to go in for Mr. Caldwell?

A. I studied some time about it. I was not quite satisfied with Mr. Carney's statement. I had always been his friend and done all I could

for him; and Mr. Carney made a further statement something like this: that he might come out again as a candidate. What he meant by it I do not know, and could not make out of him. But he insisted that I should stay there at any rate, and said he might come out again as a candidate.

By Mr. CARPENTER:

Q. For the Senate?

A. For the Senate.

By the CHAIRMAN:

Q. Was that the reason you staid?

A. Not particularly. I think I would have staid anyhow. I told Governor Carney at the time that, as he was off the track and Mr. Caldwell was the candidate of the people of Leavenworth, if his friends went in to make a fight for Mr. Caldwell, there was no use in his talking of ever coming on the track again, because I told him at that time that I would not play false to Mr. Caldwell if I went to work to help elect him; that I would stand by him to the end, and would not play false to Mr. Caldwell for him.

Q. Then you did not stay upon Governor Carney's account?

A. No, sir; I went to work for Mr. Caldwell.

Q. Did you have an interview with Mr. Caldwell?

A. Not at that time. I saw Len. Smith, as we called him.

Q. How did you come to go to work for Mr. Caldwell; had you known him before?

A. I had known him by reputation very well for several years. I had known him personally, but not intimately.

Q. Who procured you to go in for Mr. Caldwell?

A. Well, I suppose it was Governor Carney. Mr. Smith came into the room where Governor Carney and I were sitting talking in this building, and Governor Carney says to Mr. Smith: "Here's Drenning; you had better get him to work and help you." Len. says, "I will be very glad to have him stay and help; perhaps at some time we can do him a favor." He went on to say that I could do them some good by staying there, and of course I went to work for him.

Q. Did you go to work for Mr. Caldwell on that conversation?

A. Yes, sir.

Q. Did you have any other conversation with Mr. Smith?

A. Not at that time.

Q. Was there any arrangement by which you were to be paid for your services?

A. There was not.

Q. Directly nor indirectly?

A. No, sir; except this: He spoke to me to stay until after the election, and said "I will see that your expenses are paid."

Q. Carney told you that?

A. Yes, sir.

Q. To induce you to stay and work for Mr. Caldwell?

A. He simply said I should not be out of money.

Q. Have your expenses been paid?

A. Yes, sir.

Q. By whom?

A. By Len. Smith. The only money transaction between me and any one else was that statement of Governor Carney, and after the senatorial election—that was Wednesday—and on Thursday, on the cars going

home from Topeka to Leavenworth, Mr. Smith came to me in the cars and handed me a one hundred dollar bill, and asked if that would cover my expenses. I told him it would and a great deal more, and I didn't care about taking it; that I did not ask any pay for it. He said, "That's all right; you take that; I don't want you to be out of money."

Q. Did you take it?

A. I took the hundred-dollar bill, and put it in my pocket.

Q. Had you any other payment or promises to pay for reward?

A. No, sir.

Q. In the way of appointment?

A. Nothing on earth. I will not say I did not expect some favor from Mr. Caldwell in the future, if I would ask for it.

Q. Had you any assurance from him that you would have help?

A. No, sir; I supposed he was a friend of mine and would help me, and so I helped him.

Q. You had no promise from him or his friends?

A. No, sir. I never asked for it directly, or indirectly.

Q. Was there much talk there in that canvass in regard to the use of money there?

A. There was a good deal, just as there has been at every senatorial election we have had there. At the election of Mr. Pomeroy and Mr. Ross in 1867, I think it was a great deal worse than at this one, these representations generally coming, I suppose, from defeated candidates and their friends. I do not know that. I say that just as my impression as to where they generally start from.

Q. Did you hear any member of the legislature there say he had been offered money?

A. I never heard any person——

Q. What do you say?

A. I think I did hear two persons state that they were offered money.

Q. Who were they?

A. One of them is here, and one was very probably——

Q. Who were they?

A. One was Sol. Miller, who was present, and the other was Mr. Mowry, a representative.

Q. What did they say they were offered?

A. They said it was by Mr. Clarke.

Q. Who said Mr. Clarke?

A. Sol. Miller.

Q. Did he say how much was offered?

A. Mr. Miller told me at the time that Mr. Clarke agreed to give him the Lawrence Daily Tribune office; that he told him he had, I think, about fourteen thousand dollars of a mortgage on it; that it was worth about fifteen thousand dollars.

Mr. CLARKE. I have no objection to this being gone into, if I can bring witnesses to show that I am not and was not the owner of the paper at all.

Mr. TRUMBULL. I object to the testimony as to Mr. Clarke. We cannot go into that without giving him an opportunity to defend himself, and thus raising an entirely different issue.

By the CHAIRMAN:

Q. I will ask, did he speak of anybody else offering money?

A. No, sir; he never did. I think these were the only two cases I ever heard.

Q. Who was the other?

A. Mr. Mowry, the representative from the district in which I live.

Q. Who did he say offered him money?

A. The same party.

Q. Mr. Drenning, do you tell the committee that you never heard, from any source, of any offer being made by Mr. Caldwell and his friends?

A. I state that I never heard nor know any of my own knowledge.

Q. I will ask if you ever heard from any source at the time of money being offered by Mr. Caldwell or his friends?

A. I heard this statement that I have spoken of, perhaps six hundred or a thousand times, but as for anything direct by Mr. Caldwell's workers or members of the legislature to vote for him, I never have in my life.

Q. You never heard Len. Smith speak on this subject?

A. I never heard him speak directly about the use of money.

Q. Or indirectly?

A. Nor in any way, I don't think.

Q. Or George Smith?

A. I never saw him to know him in my life.

Q. Or Mr. Tom Anderson?

A. Never to my recollection, except I may have heard these parties, with a great many others, repeating these rumors, or repeating something of the kind. I have heard men making a remark something like this very often—perhaps a friend of Mr. Caldwell and perhaps not—that such and such a man they thought was going to vote for Spinner; that is, I suppose, they meant by that that they were voting for something that had Spinner's name on. Remarks of that kind I have heard quite often.

Q. Did you hear Tom Anderson say that anybody was going to vote for Spinner?

A. No, sir; I never did. That was a kind of joke passing around.

Q. Then the only talk you heard about the use of money on the part of any was in connection with Mr. Clarke?

A. Yes, sir.

Q. And that occurred after the election?

A. Mr. Mowry told me about it after I got home, but I think not until the investigation at Topeka last winter. I think Mr. Miller mentioned it to me at the time it occurred.

By Mr. CROZIER:

Q. You said something about the candidacy of Mr. Carney there?

A. Yes, sir.

Q. I ask you if Mr. Carney did not say to you soon after he came to Topeka that he did not want Mr. Caldwell elected at all?

A. He did. I forgot that in my statement in regard to that matter when Mr. Carney and I talked about this. I afterward called him into a front room, where there was no person present but him and myself, and I said, "I want to know now whether you want Caldwell elected or not?" Governor Carney studied about it a little while and said, "I do not really personally want him elected;" and he went on to explain in an indirect unintelligible way, but I gathered from what he said he wanted to go on the track again himself and be a candidate.

By Mr. CARPENTER:

Q. What time was this conversation with Carney?

A. About seven or eight days before the election.

Q. After the legislature convened?

A. Yes, sir; after I arrived at Topeka, perhaps about five or six or seven or eight days before the election.

By the CHAIRMAN:

Q. Was there anything said in that conversation or any intimation by Governor Carney that he had received a consideration for withdrawing?

A. He never mentioned anything of the kind to me.

Q. Did you have any understanding of that kind—that there was any money in it?

A. No, sir. I certainly did not know it.

Q. Did you know anything about a check drawn by Len. T. Smith for \$7,000 and indorsed by Governor Carney?

A. I never knew anything about it, and never heard of it until a long time after the election, I think.

Q. Did you know anything about a \$3,500-note that Anderson had?

A. No, sir.

Q. Do you know anything about Dr. Morris drawing a check for \$5,000?

A. No, sir.

By Mr. HILL:

Q. I think you stated that Governor Carney said to you before this election that your expenses should be paid?

A. Yes, sir.

Q. After the election was over did you remind him of that promise?

A. I never mentioned it to him from that day to this. I supposed he had mentioned it to Mr. Smith.

Q. Why did you suppose so?

A. I don't know. I can't say that I had any reason, except that Mr. Smith paid me.

Q. Before Mr. Smith paid you did he tell you anything about looking to him?

A. No, sir.

Q. Did Mr. Carney tell you to go to Mr. Smith?

A. No, sir.

Q. Then you left without making any arrangement with them?

A. I did not expect or want anybody to pay my expenses. I refused at first to take it from Mr. Smith.

Q. I thought you refused to take anything beyond your actual expenses; that you did not want more than that?

A. No; I told Mr. Smith that was a great deal more than my expenses, and that I did not care about anything.

Q. Did you not consent, at the time you talked with Governor Carney, to accept your actual expenses?

A. I said nothing about it. He said I should not be out anything.

Q. Who should pay it but Carney?

A. I did not ask who would pay it.

Q. I speak of the first conversation that Governor Carney told you your expenses should be paid. Did you not assent to that proposition, and did you not agree that you would accept your expenses after the election was over?

A. I don't remember that I did.

Q. Did not Governor Carney understand that you would accept?

A. I do not know that he did.

Q. How did it happen, then, that Len. Smith should take you the money if there was no understanding?

A. As I stated before, I supposed that Governor Carney had told him that I should get pay from Mr. Caldwell from that time out. I supposed that Governor Carney had spoken to him to pay my expenses.

Q. Did you say you never intimated to Mr. Smith that you expected your expenses to be paid?

A. I never did at any time, nor had any other conversation with anybody about it, except the one I spoke of between Governor Carney and me.

Q. You expected no compensation, in any shape, from Mr. Caldwell for your labors?

A. Not in the shape of money, as I stated to the chairman.

Q. What did you expect, if anything?

A. I stated that, some time or other, I might want some favor.

Q. You had nothing definite in your mind?

A. No, sir; I never asked him for anything, or said anything about it, or for compensation for my services directly or indirectly.

Q. You do not know that Governor Carney and Mr. Smith had any conversation about your expenses?

A. No, sir.

Q. Neither of them has told you that they had?

A. No, sir.

By Mr. CLARKE:

Q. You stated you had a conversation with Sol. Miller in reference to the Lawrence Tribune.

A. Yes, sir.

Q. Who is Sol. Miller?

A. He is the editor, or was then, of the White Cloud Chief, now the Troy Chief.

Q. A newspaper in your county?

A. Yes, sir.

Q. What are your relations with Mr. Miller?

A. We are personally friendly.

Q. Were you a candidate for the State senate last fall?

A. Yes, sir.

Mr. CROZIER. What has that to do with this investigation?

Mr. CLARKE. I want to show the relations of Miller to the witness.

The CHAIRMAN. There may be some point in it; we cannot tell. Ask the question.

By Mr. CLARKE:

Q. Were you a candidate for the State senate?

A. Yes, sir.

Q. Were you the regular nominee?

A. There was a split ticket in our county.

Q. Were you supported by the White Cloud Chief?

A. Yes, sir.

Q. Were you elected?

A. No, sir.

Q. Was not this whole matter the subject of common conversation, and discussed in the newspapers in that election?

The WITNESS. What matter?

Mr. CLARKE. This whole matter of the Caldwell election—your relations to it?

A. In my county it——

Mr CARPENTER. I object to that.

The CHAIRMAN. That is too remote.

SATURDAY, *January 25, 1873.*

CHESTER THOMAS sworn and examined.

By the CHAIRMAN:

Question. Where do you reside?

Answer. In Topeka, Kansas.

Q. Were you present in Topeka during this senatorial election?

A. I was, sir.

Q. Were you a member of the legislature?

A. No, sir.

Q. Were you taking a part in that election?

A. I was, sir; in the early part of it.

Q. State to the committee what you know, if anything, in regard to the use of money, or offer of money, on the part of Mr. Caldwell or his friends for the purpose of procuring his election.

A. I do not know of their offering any.

Q. Were you authorized to negotiate for the vote of any member?

A. I was.

Q. By whom?

A. J. M. Steele, of Wichita.

Q. Was he a member?

A. He was a member.

Q. He authorized you to negotiate for his vote?

A. Yes, sir; he offered his vote; we had a talk about it. I got acquainted with him before the first ballot. He said nothing about negotiating his vote for money before the first ballot. I think I got acquainted with him at Mr. Clarke's room. He introduced himself as coming from the adjoining county in Pennsylvania to where I came from. I introduced him to Mr. Clarke before any ballot. Between the ballotings he offered to negotiate his vote. He said they were selling their votes for money, and he might as well put in as anybody.

Q. Did you have any conversation with Len. Smith about it?

A. I went to Len. Smith and Mr. McDowell, and I may have spoken to others, but them in particular.

Q. What did you say to Len. Smith or Mr. McDowell?

A. I think the first I said was something like this: to ask if they wanted more votes. They said they did, and then I told them my business, and Len. Smith, I think, did not stay or remain long at the time at all; I think he turned around after I told him what would be required for a vote that was opposed to Mr. Caldwell.

Q. What did you tell him would be required?

A. Eight hundred dollars. Mr. Steele had asked a thousand, but he had agreed to \$800 before I went away.

Q. Did you tell him he could have Mr. Steele's vote for \$800?

A. I did not mention Mr. Steele's vote at all.

Q. Well, the vote of a member.

A. I told him a member that had opposed them.

Q. Would vote for Mr. Caldwell for \$800?

A. Yes, sir, through to the end.

Q. What did he say?

A. Mr. Smith turned around and said they could get all the votes they wanted now, as though they were confident; he said they could get all the votes they wanted for \$500, or in substance like that. Then I talked with Mr. McDowell a little more by ourselves.

Q. Did Mr. Smith go out then?

A. He turned around; he was in a crowd.

Q. Did he leave you in conversation with Mr. McDowell?

A. Yes, sir.

Q. What did he say?

A. In talking over he seemed to want to know the name. I did not tell any name. I do not think he inquired directly for it, but before he got through Steele's name was introduced, and I caught at it in a moment; I saw in a moment by the expression that he had been treated with. I did not still mention his name. I kept it entirely back. I listened to it and ascertained that he was committed to Mr. Caldwell, and that he had received the money.

By Mr. CARPENTER:

Q. What did he say?

A. I cannot tell; only I became satisfied from the conversation that he was committed, and how much money he had, and that he had not voted as he agreed. We did not dwell long after that.

By the CHAIRMAN:

Q. You said that Mr. Steele had not voted as he agreed?

A. He had not voted as he agreed to at all.

Q. When did you ascertain that?

A. While talking with Mr. McDowell there.

Q. What did Mr. McDowell say about it? Come as near as you can to stating what he said.

A. I do not think he talked very plain, only that Steele was their man, and he complained of his not voting as he agreed.

Q. Did he tell you or give you to understand from his conversation that Mr. Steele had received money?

A. I understood it distinctly, that is, to my own satisfaction, while he did not say he gave it to him, or this, that, or the other amount; but I learned that he had give him the amount.

Q. How much?

A. Just \$500; and as soon as I learned that we separated pretty quick. We did not talk a great deal about it afterward. I learned that—

Q. This conversation occurred between the two votes?

A. Between the two ballots.

Q. Was it the evening before or the morning of the joint convention?

A. I should think it was the morning of the joint convention. It might have been in the evening; I rather think I met him twice.

Q. Was that all that passed between you and Mr. McDowell?

A. Yes, sir; we were together some little time.

Q. Did you see Mr. Len. Smith afterward in regard to it?

A. I do not think I did.

Q. Did you have any conversation with him about it?

A. It strikes me that the name of Mr. Steele came up that day some time with Mr. Smith—I do not know but it might have been Mr. McDowell—and he thought he would vote right in the end.

Q. Which was it, Smith or McDowell, made that suggestion?

A. I cannot tell. It was my impression, and I have thought of it considerably since, and I am inclined to think it was Mr. Smith.

Q. Did Mr. Smith state that he thought Mr. Steele would vote for Mr. Caldwell in the end?

A. It might have been after this.

Q. Was there any reference in that conversation to the fact that Mr. Steele had been paid?

A. I learned it to my satisfaction that he had been paid, and the amount.

Q. Was there any reference in that last conversation, which you think was with Mr. Smith, to that subject?

A. Not any to money.

Q. When he said he thought he would vote for Mr. Caldwell, was there any reference to money?

A. I do not think there was, but the question of his final vote was mentioned incidentally.

Q. After you had learned from Mr. McDowell, as you thought, that Steele had received \$500, did you go back and talk with Steele?

A. I did directly.

Q. What did he say?

A. He said, "I told you not to mention my name." I answered, "I did not mention your name at all, Mr. Steele; I was very careful;" and I talked to him, may be, with a little warmth.

By Mr. CARPENTER:

Q. Tell the conversation.

A. I says to him, "You are already sold; you have got the money in your pockets, and you have not voted as you agreed to."

By the CHAIRMAN:

Q. What did he say?

A. I cannot tell you much about it. I guess I repeated this right along. He made this reply: "I told you not to mention my name." That is as I remember it.

Q. Did he deny that he received the money?

A. He did not deny it at all nor acknowledge it directly. He turned and said, "I told you not to mention my name."

Q. And you said you had not?

A. I said, "I did not mention your name, Mr. Steele; your name came up, and of course I listened to it, and I know you are already sold, and, sir, this is no way to do business."

Q. You say you did not mention Mr. Steele's name to Mr. McDowell?

A. I do not think I did.

Q. Nor to Mr. Smith?

A. In the second conversation I do not remember how Mr. Steele's name came in.

Q. But in the first conversation?

A. I did not mention it.

Q. How was Steele's name introduced into the conversation, and how did McDowell come to tell you that he had received \$500 for his vote?

A. His name was introduced in talking about the votes.

Q. How was it introduced?

A. I do not know how.

Q. Did they understand you to refer to Mr. Steele, and that you had come from Mr. Steele?

A. It may be that Mr. McDowell supposed I meant Steele. I think, very likely, he did.

By Mr. CARPENTER:

Q. Do you know?

A. He introduced Steele's name.

By the CHAIRMAN:

Q. He introduced it himself, without your suggesting it?

A. Yes, sir.

By Mr. CARPENTER:

Q. Was Mr. McDowell speaking of Mr. Steele when he said he had had five hundred dollars?

A. Yes, sir; he was speaking of Steele.

Q. Did Mr. McDowell say he had paid Mr. Steele five hundred dollars?

A. Yes; he was speaking of Steele.

Q. Did McDowell say, in words, that he had paid Steele five hundred dollars?

A. I cannot tell you the words he used; I ascertained that fact, I thought correctly, and went back to Steele with it.

Q. Can you tell the substance of what Mr. McDowell said to you? My object is to get at, as nearly as possible, the actual conversation. It might have a different impression on our minds from the impression it made upon yours.

A. That kind of conversation is not talked as plain as some others; I do not think it was direct. I got the impression from Mr. McDowell most certainly, as much so as if he had said it, that he had had just that amount of money.

Q. And you cannot tell whether you got that impression from words, or pantomime, or what?

A. It was from his talk, and the fact of Steele's name being introduced.

By Mr. HILL:

Q. Was your intimacy with Steele known to Mr. Smith and Mr. McDowell; did they know that you were on familiar terms?

A. It may have been. Steele had been in Mr. Clarke's rooms considerably, and had attended the caucus before the ballot.

By Mr. CARPENTER:

Q. Do you say that he had been in Mr. Clarke's room?

A. Yes, sir; there is where I saw him first; he introduced himself as being raised in Pennsylvania, in the adjoining county to me, and spoke of whom he married, and that I was acquainted with his wife. We were on an excursion to Kansas City when I was in company with him before this.

By the CHAIRMAN:

Q. When Mr. Steele got you to negotiate his vote, how did you come to go to Len. Smith and to Mr. McDowell for that purpose?

A. I went to them as to known friends of Mr. Caldwell; they actively supported Mr. Caldwell, and I knew that to be the case; they were active supporters of Mr. Caldwell.

Q. Did you go to them with any understanding or impression on your part that they were using money for Mr. Caldwell, or were in that business?

A. I supposed they were using money; I took it from the common report.

Q. Was there talk of that kind generally about there?

A. Yes, sir; there was talk of that kind.

Q. Did you know of any other member of the legislature who proposed to receive money, or admitted that he had been offered money? Did you hear it from any other?

A. Only by common report; I do not know of any. I heard Mr. Manning's name mentioned, and a gentleman right up the road, whose name I cannot remember; I never can remember names; I know him well; he is from Ellsworth County.

By Mr. CLARKE:

Q. Bayers?

A. Bayers; that is the name; a freighter.

By the CHAIRMAN:

Q. Did you hear him talk about it?

A. No, sir; I do not know that I did.

Q. Do you know any other fact in connection with this matter from any of Mr. Caldwell's friends, or from Mr. Caldwell himself, or from any member of the legislature that you, under your oath, ought to state?

A. I do not know that I do.

Q. I commit the matter to your own conscience.

A. I do not know as I do.

By Mr. CROZIER:

Q. Where did this interview between you and Mr. Smith and Mr. McDowell take place?

A. At the Tefft House.

Q. In what room?

A. I do not think it was in a room; it was in the crowd in the hall.

Q. Was it in the office or in the hall?

A. I think we went to a room.

Q. Where was the first conversation with Mr. Smith?

A. I think in the hall or north room, occupied by Mr. Caldwell—the large square room.

Q. Were other persons present?

A. I do not think there was anybody listening to it particularly; I rather think it was in the crowd, and we went to a room.

Q. When you first met Mr. Smith, was it in the crowd where there were other persons in considerable number?

A. There were other persons around; it was there in the hall, or that broad room.

Q. How did you happen to mention the subject of the sale of a vote to Mr. Smith in the crowd?

A. Well, there was an opportunity of talking where we were. I think Mr. McDowell and I went into a room; I do not think Mr. Smith did, unless he was in that square room.

Q. Do you say it was in that square room?

A. It was in the square room or in the hall.

Q. In a room at the time occupied by a number of persons?

A. I think there were several in it.

Q. Was it in what is known as the parlor of the Tefft House?

A. Yes, sir; due north of Mr. Caldwell's room.

Q. Mr. Caldwell's room opened out of it?

A. Yes, sir.

Q. Was it not a public room?

A. Yes, sir.

Q. Was there not almost always a large number of persons in it?

A. Yes, sir; passing back and forth.

Q. Were Mr. Smith and Mr. McDowell together when you first mentioned the subject of the sale of this vote?

A. I do not know whether they were or not; I think they were all coming together; they were near by.

Q. Who made the first proposition?

A. I rather think I spoke to Mr. McDowell, and he said he would see me.

Q. Where was that?

A. Soon after that we did see one another.

Q. Where was that?

A. In the halls, or somewhere around.

Q. Was it after that you spoke to Mr. Smith and Mr. McDowell together?

A. Yes, sir; I rather think I spoke to Mr. McDowell first, and then, after that, saw them together.

Q. When you spoke to Mr. Smith was Mr. McDowell present?

A. I think so.

Q. Did he hear?

A. I do not think he did; I do not know that. I should think he was present. Mr. Smith did not remain long, or talk much about it. He turned around, and I remember that one remark, and it is nearly all I do remember that he said.

Q. When, as you say, Mr. McDowell told you it had been fixed, or whatever was the word, in what place was that?

A. I think that was in a room; I think he took me into a room on the right of a hall that led around from that parlor.

Q. What do you say? Did he, or did he not, take you into a room?

A. I think he did; I think we went into a room.

Q. What did you go into a room for? To talk about some particular vote?

A. He said he would see me.

Q. About this vote?

A. About this vote.

Q. What vote?

A. Steele's vote. I did not know it was Steele's that he thought of; I did not mention Steele's vote, but I ascertained afterward he meant Steele when I was talking.

Q. How did Mr. McDowell know you meant Steele?

A. I do not know as he did; I got the impression that he suspected I did from the fact of his introducing his name.

Q. Did he say to you that you were talking about Steele's vote? Was that the way it was introduced?

A. No; I did not mention Steele's name.

Q. There were about 100 or over 100 members of the legislature, were there not—120 or 130?

A. Yes, sir; in both houses.

Q. How did Mr. McDowell, unless you mentioned Steele, know that you referred to Steele?

A. I do not know how, but I did not mention Steele's name, for the reason I said. I know that very well.

Q. Yet McDowell, you now say, told you that you were talking about Steele?

A. Steele's name was introduced; I do not know directly how it was introduced.

Q. You never mentioned it at all?

A. I never mentioned it at all. It was introduced, but not as referring to the vote I was offering.

Q. You say you told Steele afterward you had not mentioned his name?

A. Yes, sir; I told him, "I did not mention your name, but your name was introduced."

Q. Did you have any conversation with Mr. Caldwell himself on the subject of Steele's vote, or any other vote?

A. Not any at all, to my recollection. I was in Mr. Caldwell's room before.

Q. Do you know whether Mr. Caldwell had been advised of this conversation between you and Mr. McDowell?

A. I do not know anything about whether he was or not. I was in Mr. Caldwell's room soon after he came to Topeka, and saw him in the parlor and hall and rooms and office, but had no conversation with him about anybody's vote.

SATURDAY, *January 25*, 1873.

SOLOMON MILLER sworn and examined.

By Mr. CROZIER :

Question. Where do you reside?

Answer. I reside in White Cloud, Doniphan County, Kansas.

Q. How long have you resided there?

A. Sixteen years.

Q. What is your business?

A. Printer and publisher.

Q. Are you the publisher of a newspaper; if so, what one?

A. It is called the Kansas Chief.

Q. Were you a member of the legislature in January, 1871?

A. Yes, sir.

Q. What branch of it?

A. The senate.

Q. From what county?

A. Doniphan.

Q. Were you a portion of what is known as the Doniphan delegation?

A. Yes, sir.

Q. Did Mr. Tom Anderson, or anybody else, at Topeka, during that month, give you \$7,000, or any amount, for the Doniphan delegation if they would vote for Mr. Caldwell?

A. No, sir.

Q. Did you ever tell anybody that?

A. I did not.

Q. That anybody gave you that amount?

A. I did not.

Q. Did you take a package containing money or anything else during that month out of the room of Governor Carney?

A. I did not.

Q. I will read for your information from the testimony given here by Colonel Anthony, page 219:

"In this conversation with Mr. Anderson, at Leavenworth, he stated, in substance, that he tried to get the money at the bank, and they refused to let him have it, and he brought it back; and Len. got mad and tore it up, and a new check was drawn, and Carney indorsed it; and he then took it and brought the money back, and took it into a room; and he said that Sol. Miller, from Doniphan County, came in and put the package in his pocket and took it off; and it was for the Doniphan delegation."

Mr. Miller, I will ask you if that occurred?

A. No, sir.

Q. Or anything like it?

A. No, sir.

Q. Mr. Miller, were you there during the whole investigation?

A. I was there during the whole investigation.

Q. What do you know, if anything, of the use of money by any person, or the promise of money by any person——

A. I know nothing at all——

Q. Wait a moment.

—Or the promise of office or anything else in consideration of votes for any candidate at Topeka at that election?

A. That is the same question. I know nothing at all about it.

By the CHAIRMAN:

Q. How many members were there of the Doniphan delegation?

A. Two senators and five representatives.

Q. When you first went to Topeka who were you in favor of for Senator?

A. I was not pledged to any person. I was favorable to Governor Carney. I will state that the Doniphan County delegation, that is, the senators, were nominated by the county at large, and pledged to vote against Sidney Clarke, and to vote for any person most likely to beat him. They were so instructed by the convention that nominated them.

Q. How about the representatives?

A. I do not think they were instructed. We knew how most of them stood; I do not think all of them were instructed.

Q. How did they stand?

A. You mean for whom?

Q. Yes; you say you knew how they stood?

A. I mean with reference to the question of Clarke or anti-Clarke.

Q. How were they upon that point?

A. From the first district, that I lived in, Mr. Moore was very strongly opposed to Mr. Clarke, as was the whole district. Mr. Moore was an acquaintance of Governor Carney, and rather favorable to him. From the second district Mr. Bennett was opposed to Mr. Clarke very strongly; he had been a member of the State convention, the September before, and voted against Mr. Clarke as the candidate for Congress. The third district was represented by Mr. Mowry, who was anti-Clarke. The fourth district was represented by Mr. Whittaker; he was voted for by the Clarke men, but was not pledged to any person; he was voted for by the Clarke men from the fact that his opponent was Thaddeus H. Walker, and they were opposed to him. The fifth district was represented by Mr. Kennady; he was opposed to Mr. Clarke. I never spoke to him about it, because we have politically not been very friendly.

Q. Were you a senator?

A. Yes, sir.

Q. When you went to Topeka did you have an interview with Governor Carney?

A. I did not see Governor Carney until after his card of withdrawal came out.

Q. Did you know of any arrangement between him and Mr. Caldwell?

A. Nothing of the kind. I did not know he had any such arrangement until I saw it reported in the investigation.

Q. Did you know anything about the use of money there?

A. I did not.

Q. Did you hear any member of the legislature say he had been offered money by Mr. Caldwell or any of his friends?

A. I do not; not a member. Of course I heard outside rumors.

Q. When did the Doniphan County delegation declare in favor of Mr. Caldwell?

A. For myself, I was in favor of Mr. Caldwell as soon as I found out that Governor Carney was off the track. Mr. Wood, the other senator, was for Mr. Caldwell from the start; he was for him, I judged from his talk, from the first.

Q. His first choice, over Governor Carney?

A. Yes, sir; Mr. Wood was not in favor of Governor Carney.

Q. I understood you to say that two senators were in favor of Governor Carney?

A. No, sir; I said they were instructed against Mr. Clarke. They instructed them—took their pledge to vote for any person most likely to beat Sidney Clarke.

Q. When did the representatives become the friends of Mr. Caldwell?

A. That I do not know; some of them were the friends of Mr. Caldwell before I saw them. I do not know the time when they made the agreement.

Q. Did you have any conversation, while you were there, with Mr. Len. Smith?

A. I do not remember of ever speaking to Mr. Len. Smith in my life, except being introduced to him and just speaking to him at the time ordinary conversation, but nothing about the election.

Q. Did he ever ask you to vote for Mr. Caldwell?

A. He did not.

Q. Do you know of his having interviews with others of your delegation?

A. I do not.

Q. Did Mr. Anderson speak to you on that subject?

A. No, sir. I will say most distinctly, that, to the best of my knowledge and belief, I never spoke to Thomas J. Anderson during that whole canvass about the Senatorship, directly or indirectly. I never had any conversation with him, and did not know how he stood, except as I saw him with certain men.

Q. Did any other friend of Mr. Caldwell have any talk with you about it?

A. No, sir.

Q. When did you announce yourself in favor of Mr. Caldwell?

A. Just as soon as I found out positively from Governor Carney himself that he was not a candidate.

Q. But you say none of the friends of Mr. Caldwell had any conversation with you about it?

A. Not one of them.

Q. Did they not consult with you in regard to Mr. Caldwell's interest after it was found out that you were for Mr. Caldwell?

A. Not specially.

Q. Neither Mr. Caldwell nor these men reported as his agents?

A. None of them did.

Q. Did they not ask you how the rest of the delegation was going?

A. I do not remember that these men did. I was asked at different times by other persons.

Q. Did they know that you were friendly to Mr. Caldwell?

A. Yes, sir.

Q. Were you taking an active part to bring about Mr. Caldwell's election?

A. I did, after the issue came down; after Governor Carney was off, and the issue was between Mr. Clarke and Mr. Caldwell.

Q. You then took an active part?

A. I took more interest in it.

Q. Did you have any conversation with Mr. Caldwell?

A. The only conversation I had with Mr. Caldwell in my life about that was, I do not know whether on the Sunday or Monday before the election, or Sunday night or Monday; well, it was in the day-time—

Q. What took place at that conversation?

A. Had I not better state how I happened to go—

Q. Yes, state how it came about.

A. Governor Carney had withdrawn; I did not know anything about it; I had not seen him or spoken to him until I saw his card published. I went to Governor Carney; I had always been friendly to him; I asked him if it was true he had withdrawn, and did not intend to be a candidate. He said, most positively, he would not be a candidate, and desired his friends to vote for Mr. Caldwell; he did not say why he wished it; and then he said he wanted Mr. Caldwell to know that it was through the influence of his friends that he was elected; he wanted his members remembered, and he wanted his friends remembered; not to be cut off with nothing, but to be remembered in the division of favors. I understood his meaning to be offices. He requested me and some other of his particular friends to go to Mr. Caldwell and speak about this Mr. Kellogg, and we went to see Mr. Caldwell together; neither of us was alone with him. We spoke to him about this; that we were Governor Carney's friends, and were going to elect him; that he would certainly be elected, and we thought he should not discriminate against Governor Carney's friends. Mr. Caldwell said he should not do it, and he would not do it, but acknowledged the services of Governor Carney's friends, and said that in any favors he had he should remember them.

Q. Was anything else said by Mr. Caldwell in that conversation?

A. Not that I recollect.

Q. Was it not understood there that you were a man of considerable influence and activity?

A. I do not know whether it was or not; I do not know what they understood.

Q. Was there considerable anxiety there to elect Mr. Caldwell?

A. Yes; of course there was.

Q. Do you know why it was that none of the friends of Mr. Caldwell ever talked to you on the subject?

A. I suppose the friends did. What I said was as to these men represented as his agents.

Q. These men understood to be his leading friends?

A. I suppose the very reason was I never heard much ado about the thing, because I generally came out plain as to what I intended to do;

and after Governor Carney was off, I came out in plain terms, so that there was no necessity of talking to me.

Q. You stated that Len. Smith, and George Smith, and Tom Anderson never asked you in regard to your vote, or the vote of others.

A. As I said before, I never had a conversation with Mr. Smith on the subject. Mr. George Smith I do not know, and never saw him to know him. Thomas J. Anderson is a man I had no conversation with, directly nor indirectly, on the subject of the Senatorship before the election.

Q. Did you have a conversation with him afterward?

A. I do not remember that winter of having a conversation with him.

Q. Do you know anything about the charge being made against you, that you had taken \$7,000, and that you had not distributed it among the Doniphan County delegation, but had kept a part of it yourself?

A. I suppose I should know something about it, for it has been published in the newspapers, and thrown up to me, for the last two years; I have a distinct recollection of the kind.

Q. Do you know how that started?

A. I do not know; I have heard so many different stories. I heard the story that I got \$20,000, and that down to \$2,000 and \$5,000, and so it varies. I do not know where it started, or who started it.

Q. You say that for two years that has been thrown up to you?

A. Since that election, or in that neighborhood.

Q. Was it part of the story thrown up to you that you took a package off of a table, which package contained \$7,000?

A. That story was not thrown up to me; I heard that since I came here; that some one had testified to that, or was going to; but I will say that nothing of the kind happened.

Q. You did not find any considerable sum of money in that way?

A. No, sir; nothing of the kind ever occurred.

Q. But you say it has been published in the newspapers and thrown up to you constantly for two years that you did get money?

A. It has been published in the newspapers, and Colonel Anthony published it last fall, and has telegraphed it in these reports; it is the substance of the reports; in fact, about the substance of what has been telegraphed from here to the western papers is such stuff as that.

Q. You say it was published two years ago?

A. Not that story, but that I got money.

Q. But the story about your getting money in some sort has been current for two years, I understand you?

A. Yes, sir; just rumors.

Q. You say it had been published in the papers about you?

A. Yes, sir; last fall.

Q. How soon after the election was this charge made against you?

A. Well, I do not know; I could not tell exactly; I suppose I was included in the general rumors about bribery from the time of the election.

Q. Were you summoned before the legislature at Topeka?

A. I was not; I was there ready for examination all the time, but was not called.

Q. Was there any charge made against you in the testimony taken at that time, that you had received money or had been the medium of conveying money, or anything of the kind?

A. I think there was a charge in the testimony that Sidney Clarke

had given Mr. Cree, of the Lawrence Standard, my name as one that had sold out. I believe the testimony was that Mr. Clarke had furnished Mr. Cree, the editor of the Standard, my name among others. Mr. Clarke denied it to me, but Mr. Cree afterward informed me that it was furnished to him in that way, and he published it.

Q. Was it common talk about the time of this election, or just before, that there was money employed in that election.

A. It has been the talk at every senatorial election.

Q. I am asking about that particular election.

A. Yes, sir; it was.

Q. Was there a good deal said about it?

A. Yes, sir, there was any amount of talk, of course.

Q. Was it generally believed? I ask if there was a conviction in the public mind there then that there was corruption employed?

A. A good many people did and a good many people did not believe it; they were divided on it like any other question; those opposed to Mr. Caldwell would like to have believed it, and probably did believe it.

Q. Do you know of any other fact touching this matter that you ought to tell under your oath? You have been sworn to tell the whole truth; is there any other fact you ought to state?

A. I do not know of anything particular. I do not think of anything; there might be things that do not occur to me.

By Mr. CROZIER:

Q. In what capacity were you at Topeka last year during the session of that investigating committee?

A. Last year I was still a senator; I held for two years.

Q. Were you a senator at the time of this investigation at Topeka?

A. Yes, sir.

Q. Were you there all the time?

A. Yes, sir.

Q. In your seat?

A. Yes, sir; all the time, except once or twice, when I went home and was gone a day or two.

Q. Did the chairman of that committee, Mr. Snoddy, know you were there when the committee were in session?

A. Yes, sir.

Q. He was a member of the senate also?

A. Yes, sir.

Q. What was Mr. Snoddy's attitude that winter, during that investigation, toward Mr. Caldwell—friendly or otherwise?

A. I think his attitude was that of an Ishmaelite, against everybody.

Q. Did that include Mr. Caldwell?

A. Every person. I do not think he was a friend to any person who was under investigation.

Q. In answer to the question of the chairman, whether there was considerable conversation or talk at Topeka during that election, you said there was. I will ask you if you have been about the legislature at other senatorial elections?

A. No, sir; I never was, excepting the time that Governor Carney was elected, when he would not hold—would not stick.

Q. Was there any talk about money then?

A. Yes, sir; there has been at every election I ever knew about.

Q. I will ask if Colonel Anthony has not been very active, and his paper has not contained a good deal about your having sold out up there?

A. Yes, sir; it has.

Q. Was not he the first man who made that charge; was not his the first paper?

A. Yes. Well, no; it was not, either; it was that paper down at Augusta—the Augusta Republican. Davis was the man's name. That contained the substance. Davis published the substance that I afterward found Mr. Clarke had furnished to the Lawrence Standard. It seemed to let it out before it was ready to come out.

Q. Do you know what the relations of Mr. Anthony and Mr. Caldwell are?

A. I do not know anything about it except what I see in his paper.

Q. What are they from his paper?

A. I think he is very bitterly opposed to him, judging from that paper.

Q. Was he at that time?

A. Yes, sir; he had a railroad war there, and wanted to mob him, and all that kind of thing; they were tearing up railroads.

By Mr. CLARKE:

Q. Who were they going to mob, Colonel Anthony or Mr. Caldwell?

A. They were talking about mobbery and everything else.

Q. Mobbing whom?

A. Mobbing on general principles; tearing up railroad-tracks, and charging that Mr. Caldwell was in it as one of the principal ones.

By the CHAIRMAN:

Q. Was he one of the principal ones for tearing up or putting down the railroad-track?

A. Tearing it up.

By Mr. CALDWELL:

Q. You do not mean that I tore up the railroad-track?

A. No, sir; Mr. Anthony.

By Mr. CLARKE:

Q. Then it was Mr. Caldwell they wanted to mob?

A. I do not mean that they intended to mob any particular man; the mobbing I speak of is what I call mobbing—tearing up the railroad-track.

Q. I understood you to say your name was introduced into the testimony at Topeka as having received money?

A. I do not remember that. I think what I said was, that my name was furnished in the list to Mr. Cree. He told me it was.

Q. And that that appeared in the testimony?

A. I do not know that it did.

Q. Did you not hear while in your seat in the senate that you were charged with receiving money?

A. Yes, sir.

Q. Why did you not insist on going before that committee?

A. I was there ready for service of process all the time, and asked Mr. Snoddy once about it.

Q. Did you not consider that charge as seriously affecting your character?

A. No, sir, I did not, to tell you the truth about it.

Q. You did not insist on it?

A. No, sir.

Q. Did you sit near Mr. Snoddy?

A. I was very close to him.

Q. You did not ask to go before the committee to deny the allegation or testimony?

A. No, sir; I did not.

Q. Did Mr. Snoddy insist that you should go before the committee?

A. I asked Mr. Snoddy why they did not call me, and said that I was waiting to be called. He said they did not want me. I supposed from that, that that committee was gotten up for a certain purpose, and wanted certain men to give testimony to injure others; and that was about all that was wanted. I considered it a humbug from the start to the close of it.

Q. Are you apprised of the laws of Kansas on the subject of bribery?

A. Yes, sir.

Q. I will inquire what they are.

Mr. CROZIER. I object. It is irrelevant.

Mr. CLARKE. I will ask if he is aware of the law punishing bribery with fine and imprisonment, and then I will ask if he would feel bound to confess it before this committee if he had received the money referred to.

The CHAIRMAN. That would not be proper.

By Mr. CROZIER:

Q. Was not Mr. Wood, your colleague, investigated there?

A. Yes, sir; considerably investigated.

Q. Was there not a committee appointed by the senate to investigate whether he got some money for any improper purpose?

Mr. CLARKE. I object to that.

Mr. CROZIER. I want to get before the committee the fact, in reply to Mr. Clarke's suggestion that Mr. Miller's name was mentioned, that it was only mentioned in that investigation by a Mr. Cree, who said that Mr. Clarke furnished that name.

The CHAIRMAN. The committee has held that that is not admissible.

Mr. CROZIER. I give notice now to Mr. Clarke that at some time during this investigation I shall introduce and ask to have read the examination of Mr. Cree before the investigating committee in Kansas.

WASHINGTON, D. C., *Saturday, January 25, 1873.*

O. J. HOPKINS sworn and examined.

By Mr. CROZIER:

Question. Where do you reside?

Answer. In Leavenworth, Kansas.

Q. How long have you resided there?

A. Four years.

Q. What is your business?

A. Agent for the Connecticut Mutual Life Insurance Company.

Q. Do you know James H. Snead?

A. Yes, sir.

Q. Were you at Topeka during the senatorial canvass in 1871, when Mr. Caldwell was elected?

A. Yes, sir.

Q. What portion of the time were you there?

A. During the most of the session; the first part of the session particularly.

Q. What conversation, if any, did you have with Mr. Snead with reference to paying money for his vote?

A. No conversation in relation to paying money.

Q. I will read you an extract from the testimony of Mr. Snead, as found on page 232 of the record of this committee, taken on the 17th instant, and I call your attention to it, and will ask you about it: "Mr. Hopkins asked me what I wanted. I told him that I did not want anything; that I perhaps would have to vote for Mr. Caldwell, but I would support Mr. Clarke as long as he was in the field. Said he, 'There is no chance; we are going to put Caldwell through; we have got the money, and just say what you want in the way of office, or in the way of money, one, two, three, four, five, six, in money; but be moderate as you can.'" Did you at any time during the canvass, or at any other time, make such a statement as that to Mr. Snead?

A. No, sir; I did not.

Q. Or anything like it?

A. No, sir.

Q. Had you any conversation with him at all on the subject of his vote?

A. I did ask Mr. Snead to vote for Mr. Caldwell. He remarked that he could not do it; that he was going to support Mr. Clarke. I remarked it would do him no good; that Mr. Caldwell would be elected to the Senate, or words to that effect. That is all the conversation I had with Mr. Snead at all.

Q. Did you give him any reason, in that conversation or any other, why it would be politic for him to vote for Mr. Caldwell other than what he states?

A. No, sir.

Q. How long had you known Mr. Caldwell?

A. About two years.

By the CHAIRMAN:

Q. You say you were there during the most of the session?

A. Yes, sir.

Q. Did you remain after the senatorial election was over?

A. Yes, sir.

Q. What was your business?

A. Soliciting for the Connecticut Mutual Life Insurance Company.

Q. Had you no other business?

A. I was there in the interest of Mr. Caldwell.

Q. Did you go at the beginning of the session?

A. Yes, sir.

Q. Did you take an active part for him?

A. Yes, sir.

Q. What was your inducement for doing so?

A. None at all; only he was a citizen of my town, and I was anxious to see him elected United States Senator from my own place of residence.

Q. Was there any arrangement between you and Mr. Caldwell, or his friends, by which you were to be compensated for your services?

A. No, sir.

Q. Any arrangement in regard to your expenses?

A. No, sir.

Q. Were they afterward paid to you?

A. No, sir.

Q. You were never re-imbursed to any amount?

A. No, sir.

Q. You say you asked Mr. Snead to vote for Mr. Caldwell?

A. Yes, sir.

Q. You say you told him that Mr. Caldwell would be elected?

A. Yes, sir.

Q. When was that conversation?

A. I don't remember exactly. It was before the election some three or four days, I think.

Q. Did you introduce the subject to Mr. Snead, or did he introduce it to you?

A. I don't remember now. I believe I asked him to vote for Mr. Caldwell.

Q. Did you urge him strongly?

A. Not particularly. He said he was attached to Mr. Clarke and was going to support him. I remarked, as I stated awhile ago—

Q. Did you hear any member of the legislature, other than Mr. Snead, talk about any offer of money to him?

A. No, sir.

Q. Do you know anything about the use of money in any other way there?

A. No, sir.

Q. Did you know anything about an arrangement between Mr. Caldwell and Governor Carney by which Governor Carney went off the track for \$15,000?

A. No, sir.

Q. You did not hear of that at the time?

A. No, sir.

Q. Did you know anything about a seven thousand dollar check given by Mr. Len. T. Smith which Governor Carney indorsed?

A. No, sir.

Q. You knew nothing of the kind?

A. Nothing of the kind. I did not hear anything in relation to it until long afterward.

Q. Did you have any conversation with Mr. Anderson while there?

A. No, sir. I might have spoken to him meeting him on the street.

Q. Did you have any conversation with him about Mr. Caldwell's election?

A. No, sir.

Q. Or Mr. Len. T. Smith?

A. No, sir.

Q. Did he never talk to you about it?

A. No, sir; he never did.

Q. Did Mr. Caldwell himself talk to you about it while you were there?

A. No, sir; not that I remember of.

Q. Did you have any conversation with any of the acknowledged or leading friends of Mr. Caldwell while you were there about it?

A. Well, we talked over his election.

Q. His prospects?

A. Yes, sir. That is about all.

Q. With whom; with Mr. Smith?

A. With Mr. Caldwell.

Q. More than once?

A. Yes, sir; frequently.

Q. Had Mr. Caldwell requested you to go there in his interest?

A. I don't remember now whether he did or not. I was going any-
how. I think I volunteered my services. I was going on business any-
how.

WASHINGTON, D. C., *Saturday, January 25, 1873.*

G. M. SIMCOCK sworn and examined.

By Mr. CROZIER :

Question. Where do you reside ?

Answer. At Council Grove, Kansas.

Q. How long have you resided there ?

A. Twenty years next spring.

Q. What is your business ?

A. Merchandising and milling most of the time.

Q. What is it now ?

A. I am in the same business now.

Q. Were you at Topeka in January, 1871, at the time of the Senatorial election ?

A. Yes, sir.

Q. Do you know George Smith ?

A. Yes, sir.

Q. I refer to George Smith, of Leavenworth ?

A. Yes, sir.

Q. Do you know Jonathan Hammond ?

A. I know Jonathan Hammond, of Council Grove.

Q. Did you authorize George Smith or Jonathan Hammond or anybody else to draw on you for money for votes at Topeka ?

A. No, sir.

Q. Directly or indirectly ?

A. Neither directly nor indirectly.

Q. Did anybody ever draw on you ?

A. No, sir.

Q. Did you advance any money for the purpose of being used to buy votes for Mr. Caldwell at Topeka ?

A. No, sir ; I did not.

Q. You were not a member of the legislature ?

A. No, sir.

By the CHAIRMAN :

Q. Where do you live ?

A. Council Grove, Kansas.

Q. Were you a member of the legislature ?

A. No, sir.

Q. Were you there during the canvass ?

A. I was there a few days before the election, and staid a few days.

Q. Were you there when the election of Mr. Caldwell took place ?

A. Yes, sir.

Q. What was your business ?

A. I happened to be there on some businesss of my own, and staid until it was over.

Q. Were you taking a part in it ?

A. Yes, sir ; while I was there I took a little interest in it.

Q. For whom ?

A. For Mr. Caldwell.

Q. Was there any arrangement between you and Mr. Caldwell, or any of his friends, by which you were to be compensated for your services ?

A. None at all.

Q. Directly or indirectly ?

A. None at all.

Q. Were your expenses re-imbursed to you in any way?

A. Part of my expenses I found were paid at my hotel. After I had been there three days I went to another hotel, and when I went to go away I found my hotel bill had been paid.

Q. Was that before the election?

A. No, sir; after the election.

Q. Was it at the second hotel that your bill was paid?

A. Yes, sir.

Q. How long did you stay at the first hotel?

A. Three days, I think.

Q. How long at the second one?

A. Four days.

Q. Seven days altogether?

A. Yes, sir.

Q. You do not know who paid it?

A. No, sir. The landlord said, "Sir, your bill has been settled." That is all he said about it.

Q. You did not ask who settled it?

A. No, sir.

Q. What is your business?

A. Merchandising, flour-milling, and selling goods.

Q. You are a man of considerable means?

A. Yes, sir; a little.

Q. Did you hear any members of the legislature, any man who belonged to either body, or any person speak about money having been used or offered in behalf of Mr. Caldwell?

A. No, sir; I did not.

Q. You have no knowledge on the subject?

A. None at all.

Q. When you went there were you a friend of Mr. Caldwell?

A. Yes, sir, and had been for seven years before.

Q. Did he ask you to go there?

A. No, sir; and he did not know I was there until I had been there two days, probably. One or two days after I got there, probably, I met him.

Q. Was there a good deal of talk there about the use of money?

A. I did not hear but very little said about it.

Q. I will ask if about that time the papers of Topeka and other parts of the State were saying a great deal about the use of money in the election?

A. I don't know; I don't remember of noticing much said about it at the time.

Q. Was there a good deal said about it?

A. After it was over there was, but not at the time; not that I noticed.

Q. If it had been a matter of common conversation that money was used, you would have heard it?

A. Yes, sir.

Q. You were acquainted with many members of the legislature and others?

A. Yes, sir. My acquaintance was with members of the legislature and others.

Q. Are you of opinion that had that been the subject of common conversation you would have heard it?

A. Yes, sir.

Q. But you did not hear it?

A. I did not, until after the election was over, and then it was a subject of common conversation that money had been used.

By Mr. HILL :

Q. Which was the last hotel you stopped at ?

A. The Fifth Avenue. I first stopped at the Tefft House.

Q. What was your inducement for a change ?

A. The Fifth Avenue was poorly crowded, and I could find a much better room at the Fifth Avenue than at the Tefft House, which was very much crowded. I got a larger and better room at the Fifth Avenue.

Q. Were they very far apart ?

Q. Yes, sir ; I think about four blocks, probably. It is a considerable distance.

WASHINGTON, *Saturday, January 25, 1873.*

M. H. INSLEY sworn and examined.

By Mr. CROZIER :

Question. Where do you reside ?

Answer. In the city of Leavenworth, Kansas.

Q. How long have you lived there ?

A. Fifteen years, sir.

Q. Do you know Mr. Caldwell ?

A. I do, sir.

Q. Do you know William H. Carson ?

A. I do, sir.

Q. I will ask if you met Mr. Carson at Washington within the last year ; and, if so, when and where ?

A. I met Mr. Carson last spring, in May, I think, here in Washington.

Q. What conversation with reference to this investigation did you have with Mr. Carson ?

A. I met Mr. Carson first in the Senate reception-room. He said he wanted to see me and have a talk with me. We went to one side, and he took a paper from his pocket, which he said was an affidavit that he had had prepared by an attorney, relating to Mr. Caldwell's election. He read it, or a portion of it. He said that he had had it prepared for the purpose of publication ; that Mr. Caldwell had not treated him properly, or Mr. Caldwell's friends ; and that he had had that affidavit prepared for that purpose ; but that if I would see Mr. Caldwell and say to him that he had a case then pending in the Court of Claims, and if Mr. Caldwell would give him the money on it, he would turn this affidavit over to him, and agree to leave the country, and keep out of the way of the committee the same as he did at Topeka. I told him I did not want to carry any such message to Mr. Caldwell, and left him. I saw him at various times after that at the National Hotel and up here ; and he kept at me, every time I would see him, to see Mr. Caldwell for him. Finally, he came to me at the same place where I met him first, and insisted that I should see Mr. Caldwell that day. In passing out from the reception-room into the hall I met Mr. Caldwell and spoke to him about it, and told him what Mr. Carson said to me ; that he had this affidavit, and that he proposed to publish it if Mr. Caldwell did not pay him some money, and that he would ruin him. Mr. Caldwell remarked that he did not know this man, and never had seen

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him that he knew of; and that I could say to him that if he had any affidavit prepared to publish, that he had better publish it. Just at that time Mr. Carson came along and passed us, and Mr. Caldwell said to me, "I wish that you would point that man out to me, if he is around here; I never saw him; I would like to see him." I pointed to Mr. Carson and said, "That is Mr. Carson going along there now." He remarked that that was the first time he had ever seen him. I told Mr. Carson what Mr. Caldwell told me.

By Mr. ALCORN:

Q. Did you tell Mr. Carson that in the presence of Mr. Caldwell?

A. No, sir; it was subsequent.

By Mr. CROZIER:

Q. Was that all that occurred about that at the time?

A. I saw Mr. Carson frequently after that. He seemed in a desperate kind of situation; he said that he must have money; that he had come here at the request of some parties, and that he was out of money, and had no money to pay his hotel bill; that he must have some money, and he thought Mr. Caldwell ought to do something for him; that is about the substance of the conversation I had with him.

Q. Did he propose to leave town at that time, and go away, if Mr. Caldwell would buy him a railroad ticket?

A. He said if he could get enough money to get out of town and get home on, he would leave town.

Q. Did he say anything about his hotel bill?

A. Well, he said he could cut on that.

Q. Who was present at the time of this conversation between you and Mr. Carson in reference to the ticket?

A. I think General Mitchell was present.

Q. Where was that?

A. At the National Hotel.

Q. Did you see that affidavit and read it?

A. I read a portion of it, or probably all of it.

Q. What was the substance of it as he stated it to you?

A. I can only state it in a general way. It related to the election of Mr. Caldwell, and what he knew of money having been used in that contest.

By the CHAIRMAN:

Q. When he told you Mr. Caldwell had not used him very well, did he tell you how?

A. I think not.

Q. Did he make any explanation?

A. My recollection is, that he said Mr. Caldwell or his friends.

Q. Did he tell in what way they had not used him well?

A. No, sir; I think not.

Q. He gave you no explanation on that subject?

A. No, sir; I do not think he did.

Q. You say Mr. Caldwell told you he had never seen him before, to know him.

A. Yes, sir. I asked Mr. Carson, however, if he knew Mr. Caldwell he told me he knew him by sight, but never had spoken to him.

SATURDAY, *January 25, 1873.*

L. J. WORDEN sworn and examined.

By Mr. CROZIER :

Question. Where do you reside ?

Answer. At Lawrence, Kansas.

Q. What is your business ?

A. I am engaged, at present, in farming and dealing in real estate—managing estates. I have been in the revenue-service until recently.

Q. Were you at Topeka during the senatorial canvass in 1871 ?

A. I was.

Q. In what capacity ?

A. I was one of the State senators from Douglas County ; a senator from the city.

Q. Do you know Mr. Sidney Clarke ?

A. I do.

Q. Do you know Mr. Caldwell ?

A. Yes, sir.

Q. Whose election did you favor at the commencement of that canvass ?

A. Mr. Clarke's.

Q. Were you in Mr. Clarke's caucuses ?

A. Yes, sir.

Q. Whom did you vote for finally ?

A. You mean on the last day ?

Q. I will ask whom you voted for on the first ballot ?

A. Mr. Clarke.

Q. Who in the joint convention ?

A. For Mr. Caldwell.

Q. How did the friends of Mr. Clarke generally vote in the joint convention ?

A. Mr. Clarke received twenty-seven votes the first day in the two houses, and from the smallness of that vote Mr. Clarke, on consultation with some friends in the afternoon, myself for one, decided that he could not be elected, and a caucus was called to see what it was best to do, which was held on Tuesday evening after the first vote. I think twenty-four out of the twenty-seven that voted for Mr. Clarke attended that caucus, and although there was no vote taken that night, the day after, on Wednesday morning, twenty-four of us, in Mr. Clarke's room, decided by a unanimous vote to vote for Mr. Caldwell, and I believe every one of them so voted ; twenty-four of the twenty-seven is my recollection.

Q. Did they so vote with the consent of Mr. Clarke or against his protest ?

A. Well, the direct answer to the question would be that they voted with his consent, but it would, perhaps, be unjust to answer the question directly.

Q. I will give you an opportunity to answer fully. What do you say to the question ?

A. My answer is that we voted with Mr. Clarke's consent.

Q. Now I will ask what the circumstances were, if the committee desire to have it brought out.

Mr. TRUMBULL. The witness should be allowed to explain. He says it would be unjust to leave it in that way.

The CHAIRMAN. You can give the reasons why you supposed Mr. Clarke consented to it.

A. Mr. Clarke, at the caucus on Tuesday evening, opposed in a speech

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of considerable length our voting for Mr. Caldwell, and a committee, consisting of Mr. Clarke and two members of the legislature, was appointed to go to the caucus—so-called anti-Clarke—consisting of the friends of Mr. Crawford and Mr. Snoddy and whoever were running, half a dozen of them.

Q. And Mr. Caldwell?

A. No, sir; Mr. Caldwell was not regarded as a purifier. The contest was Clarke and anti-Clarke, or Clarke and the purifiers.

Q. Purifiers!

A. They were the pure, the men we sent this committee to, but they were so pure they would not receive Mr. Clarke into the caucus, and after an absence of about an hour the committee returned, and considerable indignation was worked up because the friends of Mr. Clarke were very much in earnest, and thought he was at least as good as a purifier, and from that time the tendency of the caucus to Mr. Caldwell was, I think, irresistible; and nothing could have got any compromise from us toward the purifiers. The speaking and cheering was in favor of going to Mr. Caldwell; that is, as we were beaten, and Mr. Caldwell was not running as a purifier. The sentiment was we should go to his caucus.

Q. Who were the purifying candidates?

A. They were the anti-Clarke men. The contest in the State was anti-Clarke, not Clarke and somebody else, and after we got to Topeka each purifier got as many votes as he could. There was no determination that night, but Mr. Clarke said himself that under the circumstances he could not urge us any longer to try to harmonize with the purifying camp. There was a local difficulty in regard to the Atchison delegation. Atchison County had six members, if I recollect aright, in Mr. Clarke's camp, all the Atchison delegation, and there were local jealousies between Atchison and Leavenworth. That made some portion at least of their number doubtful whether they could vote for Mr. Caldwell or not, and they asked time to consult with their leading men who were in Topeka. Indeed they told me they telegraphed to the mayor of the city, and the council was called up that night and consulted. Mr. Clarke's convention or caucus adjourned about 2 o'clock in the morning of Wednesday. The Atchison delegation met at the Tefft House soon after. I staid at Mr. Clarke's room during the session, and saw members of it at various times. They went into session with their county people, and, I think, finally called Mr. Clarke and Mr. Caldwell, and about 5 o'clock in the morning Mr. Murphy came in, and I think I saw others. But I remember distinctly of shaking hands with Mr. Murphy, and of his saying "We are now with you," and with that delegation secured it was my understanding that our 24 votes that had been together before would all be united in the morning. It so proved; they were unanimous. At the morning caucus Mr. Clarke made a speech, saying he hoped we would vote for Mr. Caldwell, and be as true to him (Mr. Caldwell) as we had been to him, (Mr. Clarke.)

By the CHAIRMAN:

Q. That was at 2 o'clock?

A. No, sir; that was at 9 o'clock.

Q. On Wednesday, the morning of the joint convention?

A. Yes, sir.

By Mr. CROZIER:

Q. What, if anything, did Mr. Clarke say about arranging for his expenses?

A. There was some talk between Mr. Clarke and some of his friends in the afternoon of Tuesday regarding his expenses.

Q. What was it?

A. I think we advised him if his caucus went for Mr. Caldwell to secure his expenses, and I think the final understanding was that Mr. Stevens would look after that matter of expenses.

Q. What was said about delay until he could arrange the final or formal action of the caucus at that time?

A. In the afternoon?

Q. At any time, before you met at 9 o'clock the next morning, what did Mr. Clapp say about delaying until he could arrange for his expenses?

A. I think in the caucus there was nothing said about expenses. I think Mr. Clarke advised them to delay until morning their final action, both in regard to the Atchison delegation and also that he might see Mr. Caldwell, and talk the matter over in a friendly way, so that we would be received into camp, and not be considered outsiders.

Q. What, if anything, did he say in regard to delaying until he could arrange for expenses?

A. I think Mr. Clarke said to me when we were going over that if the caucus was going for Mr. Caldwell, we should not do it too precipitately, because it was the opinion of his friends, and he thought himself that he ought to save himself on his hotel bill and other expenses at Topeka.

Q. Did he say anything about wanting time or wanting the caucus to delay action until he could do that?

A. No more than in those general terms, that we should not do it too precipitately.

Q. Why was it thought desirable, or what was said about it, that the whole of the friends of Mr. Clarke should go in a body for Mr. Caldwell in reference to the final result?

A. The argument used in our caucus was this: The contest between the two parties, Clarke and anti-Clarke, was bitter in the State, and the friends of Mr. Clarke, believing that he was fit for the place and had been battered down unjustly, were very anxious to secure a victory over the purifiers, and the principal argument was that as Mr. Caldwell had thirty-eight votes the first day, and we had twenty-four men in caucus, if we could all go together it would make a certainty of Mr. Caldwell's election, which we regarded as a victory over the purifiers; sixty-two votes was a majority, and the thirty-eight of Mr. Caldwell and the twenty-four of Mr. Clarke making the sixty-two, just elected. There were one hundred and twenty-three members in the two houses, so that without any outsiders the first day's vote for Mr. Clarke and Mr. Caldwell would elect. That was our anxiety, to secure the Atchison delegation with us.

Q. Did you know Mr. Strickler?

A. Yes, sir; he was a member of the house from Junction City.

Q. At that session?

A. Yes, sir; he was one of the committee; Mr. Strickler and Mr. Clarke and Senator Price, of Atchison, were the committee sent to the purifying camp.

Q. Was he a prominent friend of Mr. Clarke?

A. He was.

Q. I will ask what conversation you had with Mr. Strickler as to an appointment or as to an interview between him and Mr. Clarke in regard to an arrangement for expenses?

Mr. TRUMBULL. Has there been any foundation laid for that?

Mr. CROZIER. Mr. Clarke has testified that there was no arrangement made, and that he did not try to make any. I desire to contradict that, and show that Mr. Clarke attempted to make such an arrangement, and prove the attempt by the declaration of a member of the legislature, to whom he has said so, an active friend of Mr. Clarke, and a member of his committee from the caucus.

(The committee-room was closed for deliberation, and after some time so spent the doors were re-opened.)

The CHAIRMAN. The committee have decided that this question is inadmissible for the purpose of impeaching Mr. Clarke, but that it may be asked to prove whether an arrangement existed between Mr. Clarke and Mr. Caldwell in which Mr. Clarke's expenses were to be paid, which was known to Mr. Clarke's friends, and upon which they acted.

Mr. CROZIER. I do not wish to prove that there was an arrangement of the kind, because we deny that, but to prove that Mr. Clarke offered to make such an arrangement.

The CHAIRMAN. It would be admissible to impeach Mr. Clarke if Mr. Clarke had made the statement to the witness, but you ask if somebody else told him that Mr. Clarke did that, which is one step too far off for the purpose of impeachment.

Mr. CROZIER. I asked the question, I will say, apologetically, because I supposed we could notice the statements of Mr. Clarke's agents or active friends just as the statements of our active friends have been noticed.

The CHAIRMAN. You can do so for the purpose of establishing a fact, but not for the purposes of impeachment.

By Mr. CROZIER:

Q. Were you at Topeka, Mr. Worden, during the session of the legislature of January, 1871?

A. I was.

Q. Were you there during the whole investigation?

A. I was. I was still a State senator. The State senators hold two years.

Q. Was Mr. Snoddy, the chairman of the committee, understood to be in the interest of Mr. Caldwell during the time of that investigation?

A. Mr. Snoddy was understood to be a very bitter opponent of Mr. Caldwell.

Q. During that time?

A. During that time.

Q. I mean at the time of the investigation.

A. At the time of the investigation I never knew of any change. He was very bitter at the time of the election, and at the time of the investigation he made the most bitter speeches I ever heard against Mr. Caldwell when the subject first came up in 1872.

Q. Was he understood to be secretly a friend of Mr. Caldwell during that investigation, while he openly and apparently opposed him? Did you hear any such thing at Topeka?

A. I did not.

By the CHAIRMAN:

Q. I will ask whether he was understood to be friendly or unfriendly to Mr. Clarke?

A. He was understood to be unfriendly to Mr. Clarke and to Mr. Caldwell; unfriendly to everybody in the State that holds position gen-

erally. He is understood to be an Ishmaelite, and understood to be opposed to everybody but Jim Snoddy.

By Mr. LOGAN:

Q. He is a Snoddy man?

A. Yes, sir; he is for Snoddy.

By the CHAIRMAN:

Q. You say you and others advised Mr. Clarke after the first vote had been taken to see if some arrangement could not be made about his expenses.

A. We did. We advised him to try to secure the payment of his hotel bills.

Q. Did you advise that before any agreement was made about changing the vote?

A. Yes, sir; I advised him to do that as early as 3 or 4 o'clock of the afternoon of Tuesday.

Q. The next morning, at the caucus at 9 o'clock, when you and friends of Mr. Clarke resolved to give Mr. Caldwell your vote, was it understood that such had been made?

A. It was not. When I say that we advised Mr. Clarke to do that it had nothing to do whatever with the caucus. I was a very warm friend of Mr. Clarke, and believed I knew that his finances were not equal to his hotel bills, for there had been some reckless hiring of rooms there, by men who meant well for him, that were not occupied, but charged up, and it had nothing to do with the caucus; but I told him, as a friend, that they had run to expense there, and his friends, I was satisfied, were going for Mr. Caldwell, and if he could save his hotel bills he had better do it.

Q. What did you say about the matter being left to Mr. Stevens to arrange?

A. Mr. Clarke in the afternoon refused to consent to it in any form. He said he would try to pay his hotel bills at some time; that he could not enter into the arrangement; but my understanding was, in the evening, (I think from Mr. Clarke it was understood in our camp,) that Mr. Clarke said that he had left the whole matter to Mr. Stevens, who was a friend of his.

By Mr. CLARKE:

Q. Are you positive you learned that from me about the matter being left to Mr. Stevens?

A. I think I did. I think three of us, intimate friends of Mr. Clarke, General Babcock, Mr. Shaimons, and myself, were more urgent about it than Mr. Clarke, and we urged upon him to do it, and he told us he had put the matter in the hands of Mr. Stevens to do as he pleased about it, and that satisfied us. We were satisfied with Mr. Stevens's ability to do it, and we said nothing more about it; nothing was said about it the next day.

By the CHAIRMAN:

Q. Was there any understanding as to whether Mr. Stevens had seen Mr. Caldwell on that subject?

A. There was not. I never heard anything more about it until months afterward. I simply took it for granted that it was a reasonable thing that was probably done, but do not know whether it was or not. It never entered my mind for several months.

Q. What do you know about the use of money or offer of money upon the part of Mr. Caldwell or any of his friends to procure his election?

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A. I know nothing about it but the general rumor that was through the building in our camp.

Q. What was that rumor?

A. There were rumors that money was being used by Mr. Caldwell. In our camp it was talked over freely, and they believed such was the case.

By Mr. TRUMBULL:

Q. When was it that you understood Mr. Stevens had this matter in charge about expenses? Was it before you voted?

A. It was the evening after the first vote.

Q. Before the joint convention?

A. Yes, sir; the day before the joint convention; the night before.

Q. Between the vote of the separate houses and the joint meeting?

A. Yes, sir; about the time that Mr. Clarke's friends went into caucus.

Q. Despairing of carrying Mr. Clarke through?

A. Yes, sir. We gave up in the afternoon, on a conference of Mr. Clarke's more immediate friends, Mr. Babcock, Mr. Strickler, and others.

Q. Then you understood that that matter had been left to Mr. Stevens?

A. Yes, sir; that the settling bills had been put in Mr. Stevens's hands.

Q. You were satisfied it would be attended to?

A. Yes, sir; it was put in his hands.

Q. But you had no report from Mr. Stevens?

A. No, sir; I did not; but I was at the building very little. I boarded outside. I had just recovered from a pretty severe attack of sickness, and was not around the building, and not as active as I should have been. I was very much in earnest, but physically unable to be there as much as I would have liked to have been.

Q. Was that pretty generally understood among those friends of Mr. Clarke who met in caucus—twenty-four of you—that it was left with Mr. Stevens?

A. No, sir; I do not know that any member of the twenty-four but myself knew anything about it. It was not a general understanding.

Q. Did they know there was any negotiation?

A. No, sir; I think not. I do not think it had any influence with the vote, or anything of the kind.

By Mr. CROZIER:

Q. Had the subject of Mr. Clarke's expenses anything whatever to do with the delegation going for Mr. Caldwell?

A. None whatever. I do not know that anybody knew it but myself; and I went for Mr. Caldwell for the object stated, believing that he was the best man in the field after Mr. Clarke, and the only man with whom we could beat the purifiers. I thought Mr. Clarke ought to be elected.

Q. What, if anything, have you heard Mr. Clarke, since the election, say about pursuing Mr. Caldwell for money?

A. I do not think I have had any conversation with Mr. Clarke in regard to that since the election.

By Mr. CLARKE:

Q. Were you present at my room, or in the Tefft House, immediately after the conclusion of the meeting of the Atchison delegation?

A. I was.

Q. Do you recollect me having a conversation with you, and saying something like this, after the decision of the Atchison delegation had been reached: that while I did not propose to occupy a factious position as to the course of the friends who had very kindly supported me in the separate houses, yet I believed the day would come when they would regret their action in consequence of money?

A. I think, Mr. Clarke, that that conversation was in the afternoon of the day before. I remember that kind of remark in the afternoon, and Mr. Strickler and Mr. Speer and Mr. Babcock and myself were in that room. I do remember a conversation of that kind in the afternoon of Tuesday.

Q. Are you positive it was in the afternoon?

A. I am positive as to a conversation of that kind in the afternoon in your room.

Q. Might it not have been in the morning in my room?

A. No, sir; I think not. I think after the rejection of the committee by the southern caucus that you stated to the caucus, and to your friends generally, that while you had been very much opposed, you could not urge us any longer to try to form a combination with men who treated us with such disrespect.

Q. Quite likely; but cannot you call to mind that I stated to you in my room, or about the door of my room, soon after the meeting of the Atchison delegation, that while I did not propose to occupy a factious position in reference to your going for Mr. Caldwell, yet the time would come when you, L. J. Worden, would regret going for Mr. Caldwell?

A. I am positive it was in the afternoon. After the caucus adjourned, at 2 o'clock, all your friends (except the Atchison delegation) and yourself were determined to go in and elect Mr. Caldwell.

Q. But the caucus was at 2 o'clock at night?

A. But you say this conversation you want me to remember was at 5 o'clock in the morning.

Q. No; I say after the conclusion of the meeting of the Atchison delegation.

A. I speak of the adjournment of the caucus at 2 o'clock.

Q. Two o'clock in the morning?

A. Yes, sir; 2 o'clock in the morning of Wednesday; we had held a caucus from 9 o'clock in the evening until 2 o'clock in the morning, in Mr. Clarke's room. My understanding was that we were all agreed to go for Mr. Caldwell, in a body, except the Atchison delegation, when we adjourned at 2 o'clock.

Q. You do not mean to say that any formal agreement was reached at that caucus?

A. No, sir, no vote was taken; but the cheering and speaking in regard to going that way all indicated it; and, in fact, I suppose half of the members spoke favorably to going for Mr. Caldwell before we left the room that night. This conversation you speak of was the day before. When we were treated in that way by the Southern Kansas caucus no more opposition was made by you. I can recall nothing of the kind after we left the caucus-rooms and went to your private rooms.

Q. You have spoken of your health. Was it very feeble?

A. I had been sick about nine weeks in the fall. I was not very strong.

Q. Your sickness was very severe?

A. Rather severe. It was intermittent fever for about nine weeks.

Q. Had you fully recovered when you took your seat in the senate?

A. I was feeling tolerably comfortable, but not very stout.

By the CHAIRMAN:

Q. If I remember correctly you stated in the first part of your evidence that after the understanding had been come to in regard to going for Mr. Caldwell that Mr. Clarke made a speech in which he urged you to go for Mr. Caldwell, and be as faithful to him as you had been faithful to Mr. Clarke.

A. That was in the morning, either 8 or 9 o'clock; I think the legislature met at 10 o'clock, and twenty-four out of the twenty-seven who had voted for Mr. Clarke the day before met at Mr. Clarke's room. Mr. Clarke was requested to bring Mr. Caldwell to the room. He did so, and introduced him around to such of the members as he was not acquainted with, and he shook hands all around. Then Mr. Caldwell made us a speech, and Mr. Clarke followed him with a short speech, in which he said that he hoped we would go for Mr. Caldwell and be as true to him, Mr. Caldwell, as we had been true to him, Clarke, and then both—I think both, I know Mr. Caldwell—left the room before we took the vote. We then put the vote formally, and the whole twenty-four agreed to vote, and I have examined the record since I have been here, and find that we all voted for Mr. Caldwell.

Q. Was Mr. Insley of the Douglas delegation present?

A. Yes, sir; twenty-five were present.

Q. Did he not dissent?

A. He was not present at the meeting the night before, but did come in in the morning when the twenty-four voted to go for Mr. Caldwell.

SATURDAY, *January 25, 1873.*

JAMES F. LEGATE sworn and examined.

By Mr. CROZIER:

Question. Where do you reside?

Answer. I reside in the city of Leavenworth, sir.

Q. Were you a member of the legislature of Kansas in January?

A. I was, sir.

Q. Were you at the legislature?

A. I was, sir.

Q. Do you know Mr. Caldwell?

A. I do, sir.

Q. Whom did you vote for for Senator?

A. I voted for Alexander Caldwell.

Q. What amount of money, if any, was paid you by Mr. Caldwell, or any of his friends, directly or indirectly, to induce you to vote for Mr. Caldwell?

A. Mr. Caldwell, nor any of his friends, either directly or indirectly, ever paid me one cent, or offered me any inducement whatever to do so. I voted for him because the constituency whom I represented demanded it.

Mr. CLARKE. I want to ask the witness whether he is the same James F. Legate who was reported by a committee of the House of Representatives of the second session, Fortieth Congress, as having offered to sell the vote of a Senator of the United States for the sum of one thousand dollars? I have the record of it here, and I submit it for the consider-

ation of the committee. My reason for wanting to ask that question is, I suppose this is the first time in the history of the Government of the United States when a man is produced as a witness to refute the charge of bribery, who has been reported by one branch of Congress as having offered to sell the vote of a Senator on a great public question. I submit the document to the committee, which I have referred to. [Submitting a document.]

Mr. CROZIER. I was denied the privilege of asking a witness, Mr. Chester Thomas, whether he had not been arrested by General Sheridan for stealing cattle. It was ruled out and ordered to be stricken from the record. If that was objectionable I cannot see how this ought to be admitted.

Mr. TRUMBULL. It would be competent to introduce the record of the conviction of a witness of a crime, which would go to his credibility. Whether the report of a committee of the House of Representatives, by analogy, would be treated in the same way, I am not quite clear. I see no other ground upon which it could be admissible.

Mr. LOGAN. I do not think it is admissible. There is no mode in criminal proceedings, and I know more about that than any other branch of law, by which you can impeach a witness except by a record showing his conviction of a crime or by evidence of character. I do not believe that the report of a committee of Congress would be deemed record-evidence on a trial, though it might be deemed sufficient to prove certain facts before Congress itself.

The CHAIRMAN. I am clearly of the opinion that this question is inadmissible upon that ground. As remarked by Senator Trumbull, the record of the conviction of a witness would be competent to show that the witness had been made infamous; but the report of a committee of the House of Representatives or the Senate, in an inquiry such as that, would in this proceeding be hearsay testimony; and I am not sure but what it would be right to ask this witness directly whether he had been guilty of such an act as attempting to bribe; but Mr. Clarke does not propose to ask that question.

Mr. CLARKE. No, sir; I only submit the propriety of the question I have put.

The CHAIRMAN. I think the report of the committee of the House is not admissible. The question will not be allowed.

SATURDAY, *January 25, 1873.*

CHARLES COLUMBIA sworn and examined.

By Mr. CROZIER:

Question. Where do you reside?

Answer. At Council Grove, Kansas.

Q. How long have you resided there?

A. Some fourteen years or over.

Q. Were you at Topeka during the senatorial canvass when Mr. Caldwell was elected?

A. I was.

Q. Upon what day did you go there?

A. I think that I got there the Sunday night before the election.

Q. How long did you stay?

A. Until the election was over.

Q. Why did you happen to go? Why did you go?

A. I felt an interest in the election of a Senator.

Q. Were you requested to go by anybody?

A. I understood, after I arrived at Topeka, that a telegram had been forwarded to me, and I was asked by Mr. Phinney if I had received one. I started early in the morning to make the connection, before the hour at which he sent the telegram, so that I did not receive it, and I did not know it until I got there.

Q. Had your business in Topeka anything to do specially with the sale of Mr. Phinney's vote?

A. No, sir; not at all.

Q. Or the control of Mr. Phinney's vote for anybody?

A. No, sir.

By the CHAIRMAN:

Q. Were you at Topeka during this election?

A. Yes, sir.

Q. How far do you live from there?

A. By railroad, from eighty to one hundred miles.

Q. When did you go there?

A. My recollection now is that I got there Sunday night; but I am not certain.

Q. Before the legislature met or afterward?

A. Just previous to this election.

Q. What was your business there?

A. My business was simply to assist in the election of Mr. Caldwell if I could.

Q. Had you been sent for by anybody or did you go there voluntarily?

A. Yes, sir; I had started before the request came.

Q. Who did the request come from?

A. I was informed by Mr. Phinney that he had telegraphed me to come down.

Q. What did he want with you?

A. All I know about it is by information that he had been requested to telegraph me to come down.

Q. Did you have a conversation with him?

A. Yes, sir.

Q. Did you ask him why he telegraphed for you?

A. When he told me that he had telegraphed me I asked him "why?" and he said he was requested to do so by Mr. Shamleffer.

Q. Who was he?

A. A merchant living in our place.

Q. Where?

A. Council Grove.

Q. What did Shamleffer ask him to telegraph you for?

A. Mr. Shamleffer, I understood, was aiding Mr. Clarke's election.

Q. Aiding Mr. Clarke or Mr. Caldwell?

A. Mr. Clarke.

Q. Then you were telegraphed to go there by a gentleman that was aiding Mr. Clarke's election, and you had started previously for the purpose of aiding Mr. Caldwell's election?

A. Yes, sir.

Q. What did Mr. Phinney say to you in regard to his vote. What was he going to do?

A. My first conversation with Mr. Phinney was that he had not made

up his mind whom he should vote for; but he thought he would first vote for Mr. Crawford.

Q. Did you urge him to vote for Mr. Caldwell?

A. Yes, sir; I urged him to vote for Mr. Caldwell at first.

Q. Did he do so?

A. He did not. He told me he was under obligations to vote his first vote for Mr. Crawford.

Q. Did he vote for Mr. Caldwell the second day?

A. Yes, sir.

Q. Did you remain there until after the election was over?

A. Yes, sir; I remained one or two days after the election was over.

Q. Now, what reason had Mr. Phinney to telegraph you to come and aid in the election of Mr. Clarke? Did he think you were in favor of Mr. Clarke?

A. He told me that his object was to accommodate Mr. Shamleffer, as I understood it.

Q. Did they understand that you were for Mr. Clarke when they sent for you to help Mr. Clarke?

A. I do not know what Mr. Shamleffer understood. I do not think Mr. Phinney had any cause to think I was for Mr. Clarke.

Q. What did Mr. Shamleffer suppose you could do for Mr. Clarke? Had you had any business with Shamleffer?

A. Ordinary business; meeting him every day in the street and talking the matters of the town. I do not know why Mr. Shamleffer would suppose I was working for Mr. Clarke unless he had inferred it from the fact that I had supported Mr. Clarke for Congress. I suppose Mr. Shamleffer supposed from that that I would support Mr. Clarke for the Senate.

Q. Why did he not telegraph you himself?

A. I cannot state, unless I give what I heard others say.

Q. Did you see Mr. Shamleffer?

A. I met him there.

Q. Did you talk the matter over with Shamleffer?

A. No, sir.

Q. Did you ask him why he had sent for you?

A. I did not learn he had me sent for until afterward.

Q. But you say when you got there you saw Phinney?

A. Yes, sir.

Q. Which did you see first, Shamleffer or Phinney?

A. Phinney.

Q. And he told you that Shamleffer got him to telegraph for you?

A. Yes, sir.

Q. When you met Shamleffer did you ask him why?

A. I did not meet him until after the election.

Q. Did you mention it to him then?

A. Then we talked about it. I forget which mentioned it first.

Q. What explanation did he give to you about it?

A. He said he expected me to come there and support Mr. Clarke.

Q. Did he give any reason why he had asked you to be sent for to travel a hundred miles to support Mr. Clarke? What did he go on?

A. I cannot answer that, as to what his idea was, any further than that he expected I was in favor of Mr. Clarke and therefore anxious that I should come there to assist, if there was anything to be done, in favor of Mr. Clarke's election.

Q. You remained until after the election?

A. Yes, sir.

Q. Were your expenses paid by anybody?

A. No, sir.

Q. Never been?

A. No, sir.

Q. Has any demand of that kind been made by you upon anybody?

A. No, sir.

Q. You had no assurance of that kind before you started?

A. No, sir.

Q. What do you know of the use or offer of money by Mr. Caldwell or his friends to procure votes?

A. I do not know of any being offered.

Q. Did you hear anything at all by any member of the legislature on that subject?

A. I cannot say that I did; not particularly by members of the legislature. When I arrived in Topeka I would meet different ones. I cannot fasten it upon any one in particular; but I heard different ones mention that money was being used, both in reference to Mr. Clarke and Mr. Caldwell. I saw nothing that convinced me that that was the case.

Q. Did you have any talk with Mr. Phinney on that subject?

A. I did.

Q. What did he say?

A. He told me he had not been approached in that way, and when I talked with him, I first went there and said, "Money is being used here I understand," in a joking kind of way; and I said, "I suppose you men are all bought." Said he, "They have not bought me."

Q. Did you have any talk afterward with Mr. Caldwell in reference to Mr. Phinney's vote?

A. I did not have any talk with Mr. Caldwell after the election about Mr. Phinney's vote.

Q. But before the election, after you got there, did you talk with him about Mr. Phinney's vote?

A. I do not remember that I had any talk personally with Mr. Caldwell about Mr. Phinney's vote. I was urging Mr. Phinney to go for Mr. Caldwell on the evening of the first ballot. I informed some of Mr. Caldwell's friends during the night, I do not remember at what hour, that they could depend upon Mr. Phinney voting for Mr. Caldwell.

Q. You informed Mr. Caldwell's friends that they could depend upon Mr. Phinney's vote?

A. Yes, sir.

Q. Was that on the evening of the first day you got there?

A. No, I think it was the evening after the first day's election.

Q. Who did you tell that to?

A. I cannot name the man. He was a stranger to me. I had been introduced to him, and I understood he was one of Mr. Caldwell's friends from Leavenworth.

Q. Was that Mr. George Smith?

A. No, sir.

Q. Was it Mr. McDowell?

A. No, sir. It was another gentleman. I am acquainted with both those gentlemen.

Q. Was it Mr. Tom Anderson?

A. No, sir.

Q. Did you have any conversation with either of those gentlemen on that subject?

A. Only in general terms; not particular.

Q. I will ask you a direct question; and, in the first place, do you know Mr. Dan. Adams?

A. Yes, sir. I have been acquainted with Dan. Adams, partially, for a number of years.

Q. Did you have any conversation with him in regard to Mr. Phinney's vote?

A. I do not believe I did. My recollection is, that I did not meet Dan. Adams, to speak to him, until after the election.

Q. I will ask if Dan. Adams, while you were there, paid you any money for any purpose?

A. He did not, for any purpose.

Q. You did not receive from him a thousand dollars, or any other sum?

A. No, sir; and no other sum.

Q. For Mr. Phinney's vote?

A. No, sir.

By Mr. CARPENTER:

Q. Did you ever pay any money to Mr. Phinney for his vote?

A. No, sir.

Q. Did you ever offer any to him?

A. No, sir.

SATURDAY *January 25, 1873.*

THOMAS P. FENLON recalled.

By Mr. CROZIER:

Question. Did you hear what Mr. Sidney Clarke said the other day in reference to Mr. Snoddy's feelings toward Mr. Caldwell?

Answer. I do not remember that I heard him say that. I heard him say something about a general understanding existing at Topeka at that time.

Q. You were in Topeka at the time that committee was in session?

A. Yes, sir; I was a member of the last senate also.

Q. What was the general understanding up there to Mr. Snoddy's position in reference to Mr. Caldwell?

A. The general understanding was that Mr. Snoddy was personally very bitter against Mr. Caldwell; bitter even to a degree of injustice.

Q. Was there generally any understanding or understanding in general that Mr. Snoddy was secretly a friend of Mr. Caldwell, but apparently or openly his enemy?

A. There was certainly no such general understanding, and I never heard it mentioned or hinted until Mr. Clarke did it the other day.

Q. Would you have been likely to have known or heard of it?

A. It would have been almost impossible to have been a general understanding without I knew it.

By the CHAIRMAN:

Q. Was he regarded as friendly or unfriendly to Mr. Clarke?

A. He was regarded as very unfriendly to Mr. Clarke?

Q. Were you present at the examination of Mr. Clarke at Topeka?

A. I was not present in the investigating committee at all there.

Q. You do not know anything about his treatment of Mr. Clarke on the stand?

A. I do not, any more than Mr. Clarke has stated.

By Mr. CLARKE:

Q. From your knowledge of Mr. Snoddy, in what manner do you think he would conduct an investigation of this kind?

The CHAIRMAN: That is very remote. The evidence of how he did conduct it would be proper.

At 4 o'clock the further hearing of this case was postponed until Saturday, February 1, 1873.

WASHINGTON, *Saturday, February 1, 1873.*

DAVID A. COMSTOCK sworn and examined.

By the CHAIRMAN:

Question. Where do you live, Mr. Comstock?

Answer. I am living in Saint Louis.

Q. What is your occupation?

A. That of a book-keeper.

Q. In a bank?

A. No, sir; I am in a grocery house.

Q. I will ask you whether you were the book-keeper in the house of Scott & Co., in Leavenworth, in the months of January and February, 1871?

A. Yes, sir; I was one of the book-keepers.

Q. Had Mr. Caldwell an account in that bank?

A. Yes, sir.

Q. And Mr. Len. T. Smith?

A. Yes, sir.

Q. Did Mr. George Smith?

A. I think not, sir.

Q. Did one Dr. Morris have an account there?

A. Not that I recollect of, sir.

Q. Do you know a Dr. Morris?

A. Yes, sir.

Q. State what you know in regard to the drawing of money by Mr. Caldwell out of that bank, on checks or drafts for him passing through that bank, about the time of the senatorial election, or the meeting of the Kansas legislature, and directly afterward. State what facts you know in regard to that.

A. I do not know as I can exactly answer that without the books. I know there were checks passed through the bank there, either drawn by Mr. Caldwell or by Mr. Smith. I think one check passed through drawn by Dr. Morris.

Q. Do you know anything about a check or draft for \$10,000, drawn by or on the Kansas Pacific Railroad Company about that time?

A. No, sir. I do not think I ever saw that check.

Q. Do you know anything about a check of that amount, or some amount, by any other railroad company?

A. No, sir; I have no recollection of ever having seen any such check drawn on or drawn by any railroad company.

Q. Do you know anything about \$10,000 being obtained by Mr. Caldwell, or by his agent, during the course of that senatorial canvass, in the morning, just in time for him to take the train to Topeka?

A. Yes, sir; I recollect that Mr. W. A. Martin came into the bank one morning, just before we opened, with a check for \$10,000, which we cashed for him. My recollection is that the check was drawn on Jay Cooke & Co., Philadelphia. We cashed the check, and gave him the currency for it.

Q. Who drew that check?

A. I think it was drawn by Mr. Caldwell.

Q. On Jay Cooke & Co.?

A. Yes, sir.

Q. You gave him the currency for it?

A. Yes, sir.

Q. What was given as a reason why it was delivered before banking hours?

A. I understood Mr. Martin to say that he wanted to go up on the railway train.

Q. To go up where?

A. To go to Topeka.

Q. Did he speak about wanting to take the money with him?

A. That was my understanding—his coming there and drawing the check and getting the currency for it—that he wanted to take the currency with him.

Q. Was Mr. Caldwell in Leavenworth at that time?

A. I think not.

Q. Was that before or after the senatorial election?

A. I am not quite positive, but I think it was before or during the senatorial election.

Q. Was it during the canvass?

A. Yes, sir.

Q. Was it before the vote actually took place?

A. I can't tell, but I think it was.

Q. Do you mean to be understood as saying you think it was during the canvass, or while it was going on up at Topeka?

A. Yes, sir.

Q. Anything else about it by Mr. Martin at that time?

A. Not that I recollect. Mr. Martin might not have said in so many words, but it was the understanding between those that were present, that the money was going to Topeka.

Q. Was there any understanding for what purpose it was going to Topeka?

A. I don't think Mr. Martin said so.

Q. Who was Mr. Martin?

A. He was secretary and treasurer of the Missouri River Railroad, and also of Leavenworth, Atchson and Northwestern. At one time he was simply secretary, but afterward he had the position of treasurer also given him. I don't know whether he held that general position at that time or not.

Q. What, if anything, did Mr. Martin say about his business at Topeka—what he was going there for?

A. I don't think he said anything.

Q. Was he a friend of Mr. Caldwell?

A. Yes, sir. Mr. Caldwell, I understood, brought him to Leavenworth.

Q. Was he a younger man than Mr. Caldwell?

A. I should judge he was older.

Q. Do you know about other checks or drafts drawn by Mr. Caldwell about that time or during that time?

A. I don't think I saw any other checks. I might have seen them. I do not remember any other checks drawn by Mr. Caldwell. There might have been, however.

Q. What do you know about checks or drafts drawn by Mr. Len. T. Smith about that time?

A. I saw a check drawn by Mr. Smith. I recollect one indorsement on the back of it. I think the check was for \$7,000.

Q. What was the indorsement on the back?

A. I think there were two indorsements. One was Mr. Thomas Carney.

Q. And one was that of the bank at Topeka?

A. No, sir. I think it was drawn on a Leavenworth bank.

Q. You said there were two indorsements.

A. I think Mr. Anderson indorsed it. I think the check was made payable to Mr. Anderson, though I am not sure about that.

Q. Your recollection is, then, that the check was made payable to Anderson—not to Carney?

A. That is my recollection; I am not right positive.

Q. Which indorsement stood last on the paper?

A. I think Mr. Carney's did, except that of the bank which sent it for collection.

Q. You think Anderson's came first, and Mr. Carney's next, and then the bank; am I right?

A. Yes, sir; that is my recollection.

Q. Did you ever hear Mr. Caldwell say anything about that check?

A. No, sir.

Q. Did you ever hear Mr. Smith say anything about it afterward?

A. No, sir.

Q. Do you know anything about any other checks or drafts drawn by Mr. Smith about that time?

A. No, sir; I do not remember any others just about that time. There may have been; I might have seen several and I might not.

Q. Scott & Company was a private banking-house?

A. Yes, sir.

Q. Was it connected with any national bank?

A. The Messrs. Scott owned some stock in the First National Bank.

Q. Is that the bank of which Judge Crozier is cashier?

A. Yes, sir.

Q. Is Mr. Scott one of the principal stockholders in it?

A. He has some stock in his own name, and I think some in his brother's name and some stock in Mrs. Scott's name.

Q. Are he and his family large stockholders in that bank?

A. I understand that they have the control of the stock.

Q. Have a majority of the stock?

A. Yes, sir.

Q. I will ask if the two banks are connected in business?

A. No, sir; they are carried on as separate institutions.

Q. But you are aware that national banks and private banks sometimes operate together, and the loans are made chiefly through the private bank; was that the case there?

A. There have been one or two instances where loans have been made by Scott & Co., afterward rediscounted at the First National.

Q. Was that a common thing?

A. It was not a general thing; it was done occasionally.

Q. Do you know the extent of Mr. Caldwell's account in Scott's bank at that time?

A. No, sir; I do not.

(Individual Ledger D of Scott & Co., Leavenworth, was here brought into the room and submitted to the witness.)

Q. Just turn to Mr. Caldwell's account, if you please.

Mr. CROZIER. Before the witness answers that, I desire to ask is that in your handwriting?

A. No, sir; that is not in my handwriting—not that page. I do not believe there is any of my handwriting in that book.

Q. Is that account of Mr. Caldwell, as carried in the ledger, in your handwriting?

A. No, sir.

Q. Were any of the books or original entries, from which that ledger account was made up, in your own handwriting?

A. I cannot say positively. I should not be surprised if they were.

Q. What is your recollection?

A. I helped, occasionally, the other book-keeper in charging up remittances on the day-book.

Q. What was your particular business in that bank; with what accounts?

A. I was more concerned with the private ledger, or general ledger of the bank.

Q. What do you mean by that?

A. The ledger in which we keep the accounts—the private accounts—such as the expense accounts and the account of the eastern correspondents.

Q. The accounts of the bank with eastern correspondents?

A. Yes, sir.

Q. The accounts of Mr. Caldwell and Mr. Smith were not in this book?

A. Not in this book which I was keeping.

Q. What is the book from which these entries in the ledger is posted?

A. Posted from the journal.

Q. Did you keep the journal?

A. No, sir.

Q. What other books were entries in that ledger posted from?

A. From the day-book. There were entries from the day-book.

Q. Who kept that day-book?

A. It was Mr. Graybills.

Q. Was that part of your business?

A. No, sir; except as I would assist him occasionally.

Q. It was not part of your business?

A. No, sir.

Q. Can you say whether you made any of the entries in that day-book or ledger from which these entries were compiled?

A. I cannot tell positively. I should not be surprised if there were such entries.

Q. Can you say whether you did or not?

A. No, sir.

Q. It was not your business to do it?

A. Not unless I should help him.

Q. It was not your regular business?

A. No, sir.

Q. Have you any recollection of having done it in any instance with reference to those accounts of Mr. Caldwell?

A. I do not remember about it.

Mr. CROZIER. Now, I contend, Mr. Chairman, that Mr. Comstock cannot tell any more about these books than the books show themselves.

The CHAIRMAN. He is an expert at least, and has a general knowledge of the business of the bank.

Mr. ALCORN. I believe it is not controverted that these books were kept correctly.

Mr. CROZIER. Not by us.

By the CHAIRMAN:

Q. Referring to this book, I will ask you if you find any account of the entry of that \$10,000 check by Mr. Caldwell here?

A. I do not think it would be found in this book here.

Q. (Reading.) "January 20, \$10,000."

A. That may be it, and it may not be.

Q. January 20, 1871, there is an entry of \$10,000 against McCaldwell's account?

A. Yes, sir.

Q. January 27, an entry of \$5,000 against Mr. Caldwell's account.

A. Yes, sir.

Q. What day did that election take place?

Mr. CLARKE. The first vote was on the 24th, the next was on the 25th.

By the CHAIRMAN:

Q. (Reading from "Individual Ledger D," Scott & Co., account of Mr. Caldwell.) "January 27, \$5,000; 28th, \$1,000. January 9, \$3,581.17; on the 11th, \$203.41; on the 13th of January, \$7,182.56; January 19, \$2,000."

A. Yes, sir.

Q. Do you know anything about a note being left in the bank for collection by Mr. Carney against Mr. Smith or Mr. Caldwell for \$5,000?

A. I do not remember any such note. If it had been left for collection I probable would have seen it; if it had been discounted I probably would not have seen it.

Q. You do not remember any such note being discounted?

A. No, sir.

Q. Do you know of any note for \$10,000 given by Mr. Caldwell, or by Mr. Smith, and discounted by Governor Carney?

A. I do not remember about that.

Q. Mr. Caldwell is credited in this book, I suppose by deposit, January 11th, \$6,000; on the 12th, \$150; on the 13th, \$80; on the 19th, by a check of W. A. Martin. Is that the Mr. Martin of whom you have spoken?

A. Yes, sir.

Q. A check of \$500; and on the 20th, by \$5,000?

A. Yes, sir.

Q. Have you any knowledge who deposited that \$5,000, as accounted there?

A. No, sir; I do not remember anything about it.

Q. On the 27th, \$6,000; on the 28th, \$638; February 1, \$5,000?

A. Yes, sir.

Q. Can you turn to Len. T. Smith's account?

A. Yes, sir; here it is; (exhibiting the account.)

Q. January 33, Mr. Smith is charged with \$7,000 in this book; on the 24th, with \$200; on the 30th with \$500; February 6, with \$414.41; and February 11, with \$3,000.

A. Yes, sir.

Q. Will you now take the Individual Ledger D, 1870, of the First Na-

tional Bank of Leavenworth, and find the account of Alexander Caldwell? The index has not been sent with the book. (Submit to the witness the book referred to.)

Mr. CLARKE. While Mr. Comstock is examining that book, I will say that I was examined myself the other day in reference to an interview with Mr. Nathan Cree, of the Lawrence Standard, with a view of showing that the article published in the Standard, in reference to this investigation, was the result of a conspiracy between myself and others. I have here four numbers of the Standard, and I find by an examination of them that of the papers containing articles urging the investigation two were published previous to the time when I had the conversation with Mr. Cree that has been referred to. The papers belong to the files of the Standard, and I exhibit them to the committee and would like to have them examined and then returned. (Mr. Clarke here submitted to the committee several newspapers.)

Mr. CROZIER. What does that prove?

Mr. CLARKE. I was examined in regard to a conversation with Mr. Cree with a view of showing that the article which was published in the Standard of the 18th was the result of a conversation or agreement or conspiracy between Mr. Cree and myself.

The CHAIRMAN. You were asked whether you had not furnished the material for that article.

Mr. CLARKE. Yes, sir; and I have files of the Standard here two weeks previous to the time referred to, which contain similar articles.

The CHAIRMAN. Is the article of the 18th different from the others?

Mr. CLARKE. It is different only in inserting the name of some members of the legislature.

The CHAIRMAN. It is unnecessary to read them to the committee. Your statement is taken down, and Judge Crozier can examine the papers and then ask further questions upon them, if he desires to.

By the CHAIRMAN:

Q. Mr. Comstock, in this account of Mr. Caldwell with the First National Bank that you have found, there appears, January 9, \$1,043.90 charged to Mr. Caldwell's account, being two checks, one for \$1,000 and one for \$43.90?

A. Yes, sir.

WASHINGTON, D. C., *Saturday, February 1, 1873.*

ROBERT CROZIER sworn and examined.

By the CHAIRMAN:

Question. Judge Crozier, you were cashier of the First National Bank of Leavenworth?

Answer. Yes, sir.

Q. Has Mr. Caldwell kept an account with that bank since January 9, 1871?

A. I think there is an account there now, and was then.

Q. Do you know why it is kept on this page, and why this page is left blank from January, 1871?

A. Probably the account has not changed since January 9, 1871. I will explain: The account which Mr. Caldwell keeps in the First National Bank was originally a deposit of \$10,000, and was a trust-fund which he held, and not his own active account. That \$10,000, with a few additions, shown on the books, remains there now, except, I suppose, what

the books will show to have been checked out. I do not remember to have seen a check of Mr. Caldwell's on the First National Bank for a year. It is not his own active account.

Q. Do you say he never had any account except the \$10,000 of trust money at your bank?

A. I think not; I am very sure of it.

By Mr. HILL:

Q. Does the bank pay interest on it?

A. Yes, sir.

Q. Does it increase on the corpus of the fund?

A. Yes, sir; for the trust purposes.

Q. So that it has diminished since it has been there?

A. Yes, sir; I think it is about \$9,000 now.

Q. Was the deposit made all at once?

A. Yes, sir; I happen to know personally the circumstances.

By the CHAIRMAN:

Q. Here is a balance January 1, 1871: By balance from Ledger C, folio page, 1057, but the amount is left blank.

A. That was carried from the former ledger.

Q. But here they enter the account as if it were brought forward to this page, though the amount is not given but left blank.

A. It appears so.

Q. Is that the usual way of keeping books?

A. No, sir; it is not the right way.

By Mr. HILL:

Q. It was intended to be brought forward as to the amount, but has not been done?

A. Yes, sir.

By the CHAIRMAN:

Q. Here is a credit of \$1,000 January 1st, in that year. Is that additional to what you speak of?

A. Yes, sir; I suppose so. I do not know anything about it but what the book shows.

Q. Here is a credit January 4—the year is not given, but the handwriting is the same as that in the charge of January 9, 1871—of \$1,000.

Mr. HILL. April, 1870—September 7—here is a charge for \$500, and it is in the same handwriting as an entry of September, 1871.

By the CHAIRMAN:

Q. Then these are additional credits to the ten thousand dollars?

A. It must have been.

Q. Five hundred dollars, \$510, \$1,010, \$1,800; this account is not balanced, and is not continued since September, 1871?

A. The account is not closed at all; the account is open yet. I can state how that account arose. I know the circumstances individually.

Q. State them.

A. Mr. Caldwell, Mr. Smith, and a party of gentlemen in Saint Louis, were interested in the construction of a railroad, and obtained from the Government a tract of land in aid of the construction of that road known as the Delaware reservation. The land was turned over to Mr. Caldwell, who represented the contractors, for the purpose of building that road, and the title was put in Mr. Caldwell. A considerable of these lands were sold—eight thousand acres were sold to a firm of Shoemaker,

Miller & Co., the contractors for building the Kansas Pacific Railroad, for the purpose of obtaining timber off of it, and this ten thousand dollars was a portion of the proceeds of that eight thousand acres sold at \$20 an acre. This was a portion that was not distributed among the parties, but retained for the purpose of settling charges that might accrue, and with reference to that fund there were some other scraps and odds and ends that came into his hands as trustee from the same source. That accounts for the additional credits. Some lawsuits were then pending and are pending now in reference to that money. Mr. Caldwell drew against it for the attorney's fees and law expenses. I know I got part of it myself.

Q. What was the one thousand dollars for January 4, 1871?

A. Probably to pay a fee to me; I can't tell; I got that much from him. I can't recollect whether I got it all at once or not. There were other attorneys in connection with it.

WASHINGTON, D. C., *Saturday February 1, 1873.*

DAVID A. COMSTOCK recalled.

By Mr. CROZIER:

Q. I understood you to say your business in Scott & Co.'s bank was to keep what you call their general account?

A. Yes, sir; I do not remember whether it was entitled a "general" or "private" ledger.

Q. Well, the account of the bank with its correspondents in the east?

A. No, sir.

Q. It was another person's business?

A. Yes, sir.

Q. Suppose a check had been presented drawn by anybody on Jay Cooke & Co., and currency had been obtained on it, would it go to the account of the person calling for it?

A. No, sir, it would not, if the currency was paid on it. It would be charged to the eastern correspondent.

Q. Was it any part of your business in that bank to pay checks?

A. I quite frequently did so.

Q. Was it part of your business?

A. No, sir.

Q. It was another person's business?

A. Yes, sir.

Q. Did you ever pay any check for \$10,000?

A. I do not know as I ever paid checks for that amount; yet I may have paid it.

Q. I did not ask you what you might have done.

A. I cannot say what amount I have paid; I have paid a great deal of money over that counter.

Q. Did you cash any check of Mr. Caldwell's on Jay Cooke & Co. before the bank opened, or at any other time?

A. Not that I know of; not that I remember, sir.

Q. Would you recollect it if you had done so?

A. I do not know that it would have impressed itself on my memory at all.

Q. Do you know Major O. J. Hopkins?

A. Yes, sir.

Q. Did you not tell him in this city, last Monday or Tuesday, that you knew nothing about the account of Mr. Caldwell at Scott & Co.'s except what the book shows?

A. No, sir; I do not think I have had any conversation with Mr. Hopkins with reference to this investigating committee, or anything in reference to Mr. Caldwell's account. I have no recollection of having had any conversation with him about it.

Q. Did you have any conversation with him, or in his presence or hearing, to that effect?

A. No, sir; I did not.

Q. What is the balance-book in a bank?

A. The balance-book would show the amount of debit or credit of each individual at the opening of business every morning.

Q. Would it show anything more than the amount to the debit or credit of any individual so far as his account was concerned?

A. No, sir; I think not.

Q. What is a balance-book made up from?

A. It is taken from the journal.

Q. The journal of the bank and the preceding balance?

A. The balance of the preceding day.

Q. How, without reference to the balance-book, could you ascertain, supposing a man's account was posted in the ledger, on any particular day, what the balance was?

A. By footing the ledger on each side and then taking the difference.

Q. The difference in the balance-book is not necessary to determine the state of a man's account?

A. It is customary to refer to it.

Q. Is it necessary?

By Mr. CARPENTER:

Q. Can you get at the same thing without it?

A. Yes, sir; if the ledger is correctly posted.

By Mr. CROZIER:

Q. You could not get it from the balance-book if the balance-book was not correctly posted?

A. The balance-book is bound to be correct.

Q. So is the ledger?

A. Not always so.

Q. Could not you take Mr. Caldwell's account, or any other account in the ledger where it has been posted, and ascertain what his balance was, shown by the balance-book on any particular day?

A. Yes, sir, provided the dates were correct.

By the CHAIRMAN:

Q. I will ask if this account kept of Mr. Caldwell in this book with the First National Bank shows that, where there is an omission to carry over the balance from a former ledger?

A. No; and because of that point I could not tell the balance.

Q. I ask as to the condition of this account. The judge asks you if it would not show the state of the account; there is a defect here on the books of the First National Bank.

By Mr. CROZIER:

Q. Who opened that account of Mr. Caldwell on the books of the First National?

A. It is in my handwriting.

Q. Can you state why you did not carry forward the balance ?

A. I can give you two reasons : one is I may have been hurried at the time. It is customary on opening a new ledger to try to keep the accounts of the largest customers as nearly alphabetical as possible. In the books of the First National there was an effort to keep the Government officers by themselves, and individual depositors by themselves also. There are some accounts taking, perhaps, only about a dozen lines in a year, and I place those on half a page, and others on a page. It is customary in a bank to balance the ledger only when you have the pass-book of the depositor with you, so as to make the two accounts agree and correspond, and most likely for the reason that I did not have Mr. Caldwell's book to balance and compare with my ledger, the balance was not brought forward at that time.

Q. Can you state when that entry was made in that book ?

A. The balance brought forward ?

Q. Yes.

A. It says January 1, 1869. It may have been brought forward some time afterward.

Q. How long afterward ?

A. I do not know.

Q. Was it brought forward when you were a book-keeper there ?

A. Yes, sir.

Q. When did you cease to be a book-keeper there ?

A. I do not remember exactly ; I think it was in the month of April.

Q. What year ?

A. I can tell how far down my handwriting runs.

Q. About what time was it ?

A. I do not remember.

Q. Was it two years ago ?

A. I should think it was longer than that.

Q. Was it as long as two years ago ?

A. I can tell better from the books.

Q. Look there and refresh your recollection. (Witness examines the book.)

A. (After examining the book.) On the sundry account of the ledger I find my handwriting to December 31, 1869.

Q. Did you not leave us on the 1st of January, 1870 ?

A. I should not be surprised, but I do not remember.

Q. Was it not the time when Mr. Bluitt, your successor, came in ?

A. I think it was, because here is Mr. Bluitt's handwriting commencing January 4, 1870.

Q. Why did you not carry forward that balance at the time you transferred the account ; had you any purpose in making that omission with a view of concealing anything about that account ?

A. No, sir ; nothing whatever.

The CHAIRMAN. I did not suppose there was anything wrong in that.

A. No, sir.

By Mr. CROZIER :

Q. In whose employment are you at present ?

A. Carney, Garrett & Co.'s, Saint Louis.

Q. What Carney is that ?

A. Thomas Carney, of Leavenworth.

Q. Formerly governor of Kansas ?

A. Yes, sir.

Q. How did it happen that you were subpoenaed as a witness ; did Mr.

Carney or Mr. Clarke know that you knew anything about this transaction?

A. I never knew who had me subpoenaed here until I arrived in Washington.

Q. Did you have any conversation with Mr. Sidney Clarke in Saint Louis in regard to this matter?

A. No, sir. I have seen Mr. Clarke in Saint Louis, but I never had any conversation with him about my testimony. I may have had an introduction to him and said "good morning," but I never saw him until he was introduced to Mr. Garrett.

Q. Where did you see him?

A. In Mr. Carney's office.

Q. Did you know his business there?

A. No, sir.

Q. Was he a dealer; had he business as a merchant there?

A. No; not as a merchant at all.

Q. Did you not make a memorandum of the number and description of the books you said were necessary to show Mr. Caldwell's account, and did you not furnish that to Mr. Clarke?

A. At what time?

Q. Within a month.

A. Yes, sir.

Q. Who did you give that to?

A. To Mr. Clarke.

Q. At whose instance did you make it?

A. The memorandum in my handwriting I gave to Mr. Clarke. There is another memorandum.

Q. At whose instance did you make it?

A. Mr. Clarke asked me if that was the memorandum of the books of the bank.

Q. I asked you at whose instance did you make it?

A. At the instance of Mr. Clarke.

Q. I thought, a moment ago, you said you had no conversation with Mr. Clarke about this matter?

A. I do not remember of saying so. I said "until I got here." (The testimony on the previous page was here read over.)

Q. The record of your testimony shows that you stated, in answer to a question, that you had no conversation with Mr. Clarke at Saint Louis.

A. That is correct.

Q. How did you happen to deliver to him the memorandum of the books necessary to show the account of Mr. Caldwell with Scott & Co.?

A. He asked me for that memorandum after I arrived in Washington.

Q. Did you not furnish it before you reached Washington?

A. I may have furnished it; it is not in my handwriting. I never furnished it to Mr. Clarke.

Q. Who did you furnish it to?

A. To Mr. Carney. I told him what the books consisted of. The original memorandum was in his handwriting.

Q. What was his reason for knowing?

A. I do not know.

Q. Had you any conversation with Mr. Carney in Saint Louis or elsewhere about the account of Mr. Caldwell at Scott & Co.'s?

A. Very little, if any. I think I could recollect most of the conversation.

Q. Did you have any?

A. I recollect, along during the fall, he said, "Comstock, I am afraid you will have to go to Washington this winter." I asked what about? He said, "About this investigation of Caldwell." I told him I did not know as I knew a great deal about it.

Q. Was it then that he requested you to make this memorandum?

A. No, sir.

Q. When did he request it?

A. I think it was the evening he left Saint Louis to come to Washington, when he was subpoenaed here. I think it was within five or ten minutes before leaving for Washington.

By Mr. CLARK:

Q. Had you been subpoenaed?

A. I had been subpoenaed at the same time Governor Carney was, and then I received a telegram not to come until called.

By Mr. HILL:

Q. Were there two accounts or one account kept in the bank, while you were book-keeper, with Mr. Caldwell?

A. I do not remember, exactly. There was either in one or the other of the books an account with A. Caldwell & Co., but I do not remember whether it was closed or not.

Q. But was there one special account in the bank, as appears by your book, in which he is charged as trustee of any fund, by that name?

A. I have no recollection of such an account; there may have been.

Q. In making a deposit in the bank, of any sort, whatever he did deposit was credited to him as an individual always?

A. Yes, sir.

Q. And when he drew a check, you charged him with it?

A. We charged it to whatever account it was drawn to. If he should sign A. Caldwell & Co., it would be charged to that account, if there was such an account.

Q. Any individual transactions or account would be embraced in this account?

A. Yes, sir.

Q. He had no other individual account that you know of, but what is contained in this book and the previous ledger?

A. Yes, sir; none.

Q. This balance-book you speak of is in the nature of a memorandum or succinct statement, from day to day, of how the account of anybody having an account with the bank stands, that you may see that they do not overdraw?

A. Yes, sir.

Q. It is not kept so formally as your ledger?

A. I think it is kept with more care, for the reason that, in balancing the ledger, we always recur to the balance-book.

Q. You do not repeat entries from day to day when you have the same entry; for instance, if there was no change in a balance with a party on yesterday, and you have made the entry, and it is balanced, there has been no transaction since that entry, you do not repeat it, it is not a daily entry?

A. That balance would be brought forward; otherwise, in footing the balance, I could not make them agree.

Q. It is just an epitome account of everybody?

A. Yes, sir.

Q. Whether it stands against him or in his favor?

A. Yes, sir.

Q. So that you can quickly refer to it if it is necessary?

A. Yes, sir.

By the CHAIRMAN:

Q. When you left the First National Bank, on the 1st of January, 1871, you went to Scott & Co.?

A. Yes, sir; directly.

Q. You remained there until when?

A. I think it was the 12th day of June, 1872.

Q. I want you to take this book of the First National Bank and look for the account of Mr. Len. T. Smith.

A. I will do so.

WASHINGTON, D. C., *Saturday, February 1, 1873.*

O. J. HOPKINS recalled.

By Mr. CROZIER:

Question. Do you know Mr. Comstock, who was just on the stand?

Answer. Yes, sir.

Q. What conversation, if any, did you have with him in this city last week or this week in reference to the account of Mr. Caldwell at Scott & Co.'s bank?

A. I met him at the National Hotel, and had a little conversation with him. I asked him how long he was going to remain; he said he did not know; he was very anxious to get away; that he knew but little about the case here, and what he did know was on the books before the committee; and that was about all I said to him.

Q. Did Mr. Comstock, in the conversation you allude to, say substantially that he knew nothing about the account except what was shown by the books?

A. Yes, sir.

By Mr. CLARKE:

Q. Mr. Comstock mentioned no particular book in this conversation?

A. No, sir.

Q. Where was this conversation held?

A. At the National Hotel.

Q. Are you stopping at the National Hotel?

A. I am.

Q. What is your business there; I mean why are you remaining here?

A. I am a witness in this case.

Q. Had you been requested by Mr. Caldwell and Mr. Crozier to be there for the purpose of seeing witnesses who are summoned here?

A. No, sir.

Q. Have you seen witnesses and talked with them?

A. No, sir.

Q. Was this the only case?

A. This was a casual conversation held there with Mr. Comstock, the only man I ever spoke to.

By the CHAIRMAN:

Q. I will ask you, Major Hopkins, if you inquired particularly of him what he knew?

A. No, sir.

Q. Was that all the remark he made ?

A. That is all he made.

Q. Did you ask him any question as to whether he was present at the time of the discount or the payment of any checks ?

A. No, sir ; nothing more was said.

Mr. CLARKE. On Mr. Comstock's arrival and the investigation being adjourned Saturday, and his desire to leave for New York, I asked him to leave a memorandum for the committee.

The CHAIRMAN. I believe I asked for the memorandum myself, in the presence of the committee.

Mr. CLARKE. I was questioned, when I was on the stand, as to my action at Topeka, and I said that I had published a card at the time of my withdrawal from the candidacy for Senator. I would like to have that card made a part of the proceedings here.

The CHAIRMAN. You can submit it to Judge Crozier, and, when he has examined it, let the matter be brought before the committee again.

WASHINGTON, D. C., *Saturday, February 1, 1873.*

FRANK H. DRENNING recalled.

By Mr. CROZIER :

Question. Did you hear the testimony of Governor Carney the other day ?

Answer. No, sir. I will state that I read it ; I did not hear it.

Q. Read it in the newspapers ?

A. No, sir ; from the public record.

Q. The printed evidence, as printed by the order of the committee ?

A. Yes, sir.

Q. What conversation did you have with Mr. Carney, at Topeka, in relation to his going on the track again as a candidate ? First, who was present ?

A. I can't recollect just the conversation between Governor Carney and myself, except what I detailed the other day ; but I had the impression all the time that he was watching an opportunity to come out again as a candidate ; and I will state that I may, perhaps, have got the impression from the statements of others. Mr. Caldwell's friends all distrusted Mr. Carney ; they were afraid of him all the time, that he would do something that would injure Mr. Caldwell's chances of success.

Q. What was the conversation, if anything, between you and Governor Carney, and who was present, if you recollect ?

Mr. CARPENTER. Has not he already related that ?

The WITNESS. I related all the conversation that occurred.

By Mr. CROZIER :

Q. You say you do not remember of having had any conversation with Mr. Carney on that subject ?

A. I recollect of having a conversation, as I stated the other day.

By Mr. HILL :

Q. Do you recollect anything else about it than what you said the other day ?

A. I do not think I do. I do not remember any more than I stated the other day.

By Mr. CROZIER:

Q. I ask you now if you did have such a conversation?

A. I said after I got there, and Carney was off the track, I called him into the room.

Q. That is the conversation I want to get at.

A. I had a private conversation with him then.

WASHINGTON, D. C., *Saturday, February 1, 1873.*

JAMES L. MCDOWELL recalled.

By Mr. CROZIER:

Question. Did you hear Governor Carney testify here the other day?

Answer. I did.

Q. What conversation, if any, did you have with him, and who was present, in regard to his coming on to the track again as a candidate for the Senate?

A. At his request, on the evening of the day of the vote in the two houses, (that was the first vote,) I met him between five and six o'clock. He said to me that the first vote had been taken, and in his judgment it had been demonstrated that Mr. Caldwell could not be elected; that he had received but 38 votes, and 63 would be necessary for an election; that he had exhausted his strength, and his friends in and out of the legislature were determined that he should be a candidate, and that he should then again become a candidate if——

Q. State the conversation.

A. He said his friends in and out of the legislature were determined that he should then become a candidate, and he could not become a candidate if he thought he would not be successful. He said, "My reason for speaking of it to you is, I want to submit it to you purely as a political proposition, and I want your best judgment on it." I requested him to give me an hour to answer the question. At the end of the hour I did answer the question. I told him I did not think he could possibly be elected; and that it would be acting in bad faith to Mr. Caldwell; that his action to Mr. Caldwell up to that time had made him strong enough to defeat him, (Carney,) and his (Carney) becoming a candidate might possibly defeat Mr. Caldwell, but I did not think it would, and if he did, I did not think he could go back to his native city and live. I told him that, as a political proposition, I did not think it was sound. He told me that, "after looking the ground all over, he was inclined to think my judgment was good." That was on the evening between the first and second vote, between 8 and 9 o'clock.

Q. Was that all the conversation on that subject?

A. All the conversation with Mr. Carney at that time.

By the CHAIRMAN:

Q. Did he become a candidate or not?

A. He did not. I saw at the time from every indication that he had his preparations made to become a candidate.

By Mr. HILL:

Q. In the event that Mr. Caldwell could not be elected?

A. No, sir, but on the presumption that Mr. Caldwell could not, because he had only received thirty-five votes. I told him that was more than any other candidate had received, and I thought I had reason to

say that Mr. Caldwell was the leading candidate, and I knew that if there could have been a second ballot immediately after the first one, Mr. Caldwell would have received at least fifty votes; that I thought he was their second choice. I knew that.

By Mr. CLARKE :

Q. Were you apprised at the time of the fact that Mr. Carney had agreed to retire in consideration of Mr. Caldwell's paying him \$15,000 ?

A. I was apprised of the fact from himself that he had retired, and that he had agreed with Mr. Caldwell personally that he would not become a candidate for that election, but that he would throw his entire influence to secure the election of Mr. Caldwell. I was not apprised in any manner of the fact of the latter portion of your question relative to the \$15,000.

Q. Had you seen the paper of agreement at that time ?

A. I had not, nor for a month after that time did I see it.

By Mr. TRUMBULL :

Q. You were pretty well posted ?

A. I was looking on very carefully; it was my business to keep posted.

Q. In that canvass you knew pretty well what was going on ?

A. Yes, sir.

Q. You were right sure that Mr. Caldwell would have got fifty votes on the second ballot ?

A. I was pretty certain of it, because I had had interviews with many members, and knew they intended to cast a complimentary ballot, and then give their second vote for Mr. Caldwell.

WASHINGTON, *Saturday, February 1, 1873.*

DAVID A. COMSTOCK recalled.

By the CHAIRMAN :

Question. Have you found that account of Mr. Len. T. Smith with the First National Bank ?

Answer. Yes, sir; (exhibiting the page containing said account.)

Q. Will you turn to the account for January, 1871 ?

A. It is here.

Q. In that account of Mr. Smith appears, January 17, a debit to Mr. Smith of \$500, and on the 25th another of \$200 ?

Q. Yes, sir.

By Mr. CROZIER :

Q. I ask if \$500 was an unusual amount for Mr. Smith to draw at any one time at the First National ?

A. No, sir; it was not an unusual amount.

By Mr. TRUMBULL :

Q. Was Mr. Smith a gentleman in large business ?

A. He had some railroad business and other business.

Q. Was he drawing thousands of dollars in the course of a year ?

A. Yes, sir.

Q. And depositing thousands every year ?

A. Yes, sir.

By Mr. CROZIER :

Q. I will ask the same question in reference to Mr. Caldwell's account with Scott & Co. ?

A. Yes, sir ; he was drawing a good deal of money there and depositing a good deal.

Q. Was not his account a very large one ?

A. Yes, sir.

WASHINGTON, *Saturday, February 1, 1873.*

LEN. T. SMITH recalled.

By Mr. CROZIER :

Question. Mr. Smith, did you say to William Spriggs, or in his hearing, in that committee which was mentioned, or elsewhere, that you had paid or agreed to pay to Mr. Sears, a member of the legislature, \$5,000 or \$2,500, or any other amount of dollars, for his vote ?

Answer. No, sir ; I never did ; and I never agreed to pay him any amount, or to any person, or any member of the legislature.

Q. Did you ever say to Mr. Spriggs, or anybody else, that you had done so, or agreed to do so ?

A. Never.

Q. Did you say in his presence in that committee, or elsewhere, that the ordinary price for votes at that legislature was about \$1,000 ?

A. I never did.

Q. Or anything like it ?

A. I never did.

Q. Have you ever, at any place, in conversation with Mr. Caldwell and Governor Carney, said in substance that you were bound to have the senatorship if it cost \$250,000, or made any such remark ?

A. No, sir ; I never made any such remark in the presence of any one.

Q. Did you at the First National Bank at Leavenworth, or in Topeka ?

A. No, sir.

Q. During that canvass at Topeka did you ask Mr. Jacob Smith to cash your check for any amount ?

A. The only check he ever cashed for me, or ever was asked to cash, was one for \$100 or \$150 ; that is, during that canvass.

Q. Did you have any conversation with Jacob Smith about cashing your check for two or three thousand dollars ?

A. I think there was a conversation in the room on Sunday, but it was a mere joke ; a half-dozen were by. I spoke to him about this check, and on Monday morning I went down and presented my check and got my money.

Q. How much was it for ?

A. It was \$100 or \$150.

Q. You say it was said in a jocular manner, the remark about cashing a check ?

A. Yes, sir ; and there were half-a-dozen by. I had no private conversation with him at all then.

Q. Did you ever have a conversation with D. R. Anthony in Leavenworth, or at Topeka, concerning the payment of \$3,000 or \$2,500, or any other amount, to Mr. August Bayers, for his vote ?

A. No, sir ; Mr. Anthony and myself did not have much conversation, nor have had for years,

Q. What are your relations with D. R. Anthony?

A. They are not very friendly.

Q. Are your relations with him such that you would be likely to make a confidant of him?

A. They are such that I would not seek any conversation with him, and have not had any, more than to pass the time of day.

Q. How long has that condition of things existed?

A. I presume for three or four years.

Q. At the time the railroad track was torn up on the levee, what were your relations with Mr. Anthony; friendly, or otherwise?

A. Otherwise, considerably.

Q. Was he not very hostile?

A. Yes, sir.

Q. I believe you stated, when you were on the stand before, that you drew a check on Scott & Co. for \$7,000, and gave it to Governor Carney?

A. I did.

Q. (Submitting a check to the witness.) I will ask you if that is the check?

A. Yes, sir.

The check is as follows:

No.

LAWRENCE, *January 19, 1871.* [Stamp.]

Messrs. SCOTT & Co.:

[Erased:] Simpson's Bank,

Established in 1858:

Pay to Thomas Carney, or bearer, seven thousand dollars.

\$7,000.

L. T. SMITH.

[Written across the check:] Scott & Co., bankers, paid, Jan. 23, 1871.

The indorsements are as follows:

Thomas Carney, T. J. Anderson. Pay William P. Boreland, esq., cashier, or order, for account of Kansas Valley National Bank of Topeka, Kansas. Charles N. Rix, cashier; E. Burr, teller.

Q. Where was it drawn?

A. It was drawn at the Tefft House.

Q. In what town?

A. At Topeka.

Q. When?

A. It was drawn January 19, as I see by the check.

Q. Was that the day it was drawn?

A. Yes, sir. I will state that he came to me two or three days before and wanted that check, and demanded it, but I passed it off. Finally, he came back and said he must have it; he wanted the check, and I gave it to him.

By the CHAIRMAN:

Q. Who said that?

A. Governor Carney. As I said before, it was about a week before the election; I see it was very near that—six days. I wrote home for that check since I have been here.

WASHINGTON, *Saturday, February 1, 1873.*

DAVID A. COMSTOCK recalled.

By Mr. CROZIER:

Question. Mr. Comstock, will you take that check (handing him the

check above given) and tell the committee when it was paid at Scott & Co.'s?

Answer. The date is January 23, 1871.

Q. That is the date when it was paid at the bank?

A. Yes, sir.

Mr. HILL. Are Scott & Co. and the First National Bank the same?

Mr. CROZIER. No, sir.

WASHINGTON, *Saturday, February 3, 1871.*

LEN. T. SMITH recalled.

By Mr. CROZIER:

Question. There is a charge on the books of Scott & Co. for \$7,000.

Answer. Yes, sir; and that is the check.

Mr. CROZIER. I call the attention of the committee to the fact that the indorsement of Thomas Carney is not written in the same ink as the body of the check, though Governor Carney states in his testimony that it was all done in the same room and at the same time, and on the 22d or 23d.

The WITNESS. He also stated that I drew two checks, which is entirely false; also, that I got mad and tore up one check. I never heard of this check being paid at Topeka until I saw the testimony published, that was taken before the Kansas committee. He states that I drew the money there. It is not true.

By Mr. TRUMBULL:

Q. Was the money drawn on Topeka?

A. It was drawn at Topeka, but I did not know it. He says in his testimony that I was offended because they did not cash my check. I never heard of that before I saw the statement.

Q. Do you know how Mr. Anderson got possession of it?

A. No, sir; I never heard of it until I saw the testimony; I had supposed it was cashed at Scott & Co.'s. I do not usually notice checks carefully about that; all I see is whether they tally with my bank-book, and then I lay them away.

Q. May you not be mistaken as to having drawn it, and as to Anderson?

A. No, sir; I never gave Anderson a check, I do not think, for any amount in the world, not even \$5.

Q. Was Anderson about there?

A. Yes, sir.

Q. Was he busy about this election at that time?

A. Yes, sir; he was, more or less, but he was attending to railroad legislation and matters in connection with it.

Q. But also in connection with the senatorial election?

A. Yes, sir, more or less; he was taking an active part in it.

Q. For Mr. Caldwell?

A. Yes, sir.

By Mr. HILL:

Q. Do you remember what room you were in when you drew this check?

A. Yes, sir; it was in the Tefft House, right behind the counter; they had some blank checks there, and I pulled down the book and took one and went behind the desk in the office and wrote it.

Q. It seems to be a form of a check on Simpson's private bank, and bears the date of Lawrence at the head, which you intended to erase; you have erased "Simpson's Bank."

A. Yes, sir.

Q. You did not erase the word Lawrence very carefully, but did erase "Simpson's Bank."

A. That occurred in this way: they had blank checks at the hotel, as is usual, and I pulled one off and used it.

Q. Where did you hand it to Mr. Carney?

A. Right there.

Q. In the hotel?

A. Yes, sir.

Q. At the desk?

A. I will not be sure; it was either there or right at the office; he was waiting for it.

Q. You did not see him indorse it?

A. No, sir.

Q. Nor did not know when he did indorse it?

A. No, sir.

Q. You say you never knew anything of Anderson's indorsement?

A. Never, until since this matter came out.

Q. Nor of Boreland's?

A. No, sir; that is not an indorsement; that is merely the name of the officer of the Second National Bank. I would have known it if I had paid attention to the check, but I did not. I generally look them over and see if they tally with my bank-book, and then throw them away, or lay them aside.

Q. You still state it was given in consideration of the expenses of Mr. Carney and his friends?

A. I do.

Q. And was in addition to the \$15,000?

A. Yes, sir; the agreement shows what that was.

By Mr. CLARKE:

Q. Do you know why the money was drawn from that bank?

A. I do not.

Mr. CROZIER. I offer that check in evidence together with its indorsements, and call attention to the order of its indorsers.

The CHAIRMAN. It will appear in the record. (The check appears on page 430.)

By Mr. CROZIER:

Q. What arrangements or offers did you make to Mr. Peckham, or know of having been made to Mr. Peckham, for his vote?

A. I never knew of any.

Q. Did you ever talk with him about money for his vote?

A. I never did. I would like to make a statement here—as Governor Carney said on the stand here, or Mr. Jeremiah Clarke did, and Mr. Carney denied it—in regard to my getting away with \$25,000 of Mr. Carney's money. I would like to explain that matter.

The CHAIRMAN. Go on.

The WITNESS. I asked to explain it when it came up first. I merely wanted to state, if I could not state the whole thing, that I never acted as a broker in any legislature in Kansas or any other State.

Mr. HILL. We never supposed you got that \$25,000.

The WITNESS. I was not there buying votes either.

By Mr. CROZIER :

Q. What conversation, if any, did you have with John Fletcher about the vote of a Mr. Clapp, of Johnson County ?

A. I never had any.

Q. What conversation had you with Mr. Clapp himself, or Mr. Gage, on that subject ?

A. None about purchasing their votes.

Q. What authority did you attempt to give to Fletcher or Gage, or anybody else, to negotiate with Clapp for his vote ?

A. Gage is a man I do not know. Fletcher I do know, but I never had any talk with him about it, and never would have any.

Q. Did you give either of them any authority to do so ?

A. No, sir ; none at all.

By Mr. TRUMBULL :

Q. Did you notice the color of the ink on that check ?

A. I do not know that I have.

Q. Tell me if you think Mr. Carney's signature on the back is in the same colored ink as the writing on the inside.

A. I am not a very good expert, and I would prefer to have you ask somebody else that question.

Q. I have looked at it myself, and only ask you the question in order to have it go on the record.

A. The check speaks for itself ; I would prefer that somebody else should speak on such a subject.

By Mr. CROZIER :

Q. Did you ever have any conversation with Mr. Caldwell at Topeka in the presence of Governor Carney, in which you said, substantially, to Mr. Caldwell that you had already involved him for \$40,000 or thereabouts ; that he must not stop now ; that he must expend money freely to get a basis in the legislature, or any such conversation ?

A. I never had any such conversation with him or anybody else.

Q. Did you in any such conversation, or any conversation, say to Mr. Caldwell to go on ; that when you were done, if he did not succeed, you would share the expense of it ?

A. No, sir ; no such conversation.

Q. Did you make report to any committee, or did you hear Mr. Anderson make report to any committee, or to anybody else, that certain men, or any man, had been paid, or would have to be paid, for his vote ?

A. I never did. I think I have sworn to that before.

Q. In the testimony of Thomas Carney, page 203, he says :

"Mr. Smith stated to me that the Kansas Pacific Railroad Company had just paid him \$10,000 ; that he had some currency now.

"Q. Was it a subscription or a donation ?

"A. He said they had given him that ; they had just paid him \$10,000 ; that was the way he expressed it. I took it that they had given him that to aid in his election.

"By the CHAIRMAN :

"Q. I will ask whether Mr. Smith spoke of the money being donated to him by the Kansas Pacific ?

"A. No ; he spoke of its being paid by the Kansas Pacific to assist Mr. Caldwell in the contest.

"Q. Did he speak of it as money given by the Kansas Pacific, or money that he had borrowed, and for which he had been made responsible ?

"A. He spoke of the money as being given."

Did you make any such statement as that?

A. No, sir; I never did, and never handled or saw any of their money.

By Mr. ALCORN:

Q. Did you hear Mr. Carney's statements?

A. Most of them—not all.

Q. Have you read those statements that you did not hear?

A. No, sir; I have not read all his statements upon this question.

By Mr. CROZIER:

Q. Did you offer or promise to give Mr. Williams, of Johnson County, anything for his vote?

A. I never did.

By the CHAIRMAN:

Q. What reason did Mr. Carney give for demanding that money?

A. As I said before, that he had been to a good deal of expense—had rented rooms, and would like to have his expenses paid. He pretended that it had cost him a great deal more than this would make him whole.

Q. More than \$7,000?

A. Yes, sir.

Q. What was the consideration of that check to Governor Carney?

A. For claims for his expenses.

Q. Were you willing to pay it to him?

A. I cannot say that I was; but I was, under the circumstances, for we were in such a place I could not afford to differ with him, as there was a great deal of mistrust all the while that he was coming out as a candidate, and we were anxious to secure a Leavenworth man, and could not afford to differ with him at that time.

Q. I will ask if you were in Topeka on the 17th of January, 1871?

A. Yes, sir; I must have been there; I was only home, after the meeting of the legislature, one Sunday, I believe.

Q. Did you state, in your former examination, that the only checks you drew at Topeka, besides the \$7,000 check, was the one for \$150, and the one for \$100?

A. Yes, sir.

Q. Were those two debits referred to in the account with the First National—one on the 17th for \$500, and the other for \$200 on the 25th, also drawn by you at Topeka?

A. No, sir; I think not. I will state that my wife is in the habit of going there and drawing checks, and they are charged to me, she signing my name, a fact which Judge Crozier knows, and frequently Judge Crozier himself filled up checks of mine when I was absent, and they were charged to me, which I approved. I cannot say he drew those checks. Messrs. Van Doren and Havens, my attorneys, were paying my taxes, and drew checks, but when they did that they produced the papers, the tax-receipts, and delivered them to the bank.

Q. Judge Crozier made a remark calling attention to the fact that the signature of Thomas Carney, on the back of this \$7,000 check, was not in the same ink in which the face of the check is filled up. I do not think that is very obvious; it looks to me like it might have been made with the same ink. Sometimes a change is made in the appearance of ink by the prompt application of blotting-paper; at other times it may have a heavier appearance by being allowed to remain and dry. I call your attention to this, Mr. Smith, and ask you if that is obvious?

A. As I said before, you can answer that as well I can. I understand

that Governor Carney's testimony is that Anderson indorsed it right away after he did, and immediately after I wrote it.

Q. I ask if, from the appearance of the ink and your signature, taking it altogether, it does not leave the impression that Anderson's name and the indorsement were written with the same ink and the same pen with which you signed it?

A. I should think not.

Q. Well, just look at that name, (submitting the check.) Is not the hue of the ink the same?

A. I should say very decidedly that there is quite a difference; I should think so.

By Mr. TRUMBULL:

Q. Between which?

A. Between the filling of the body of the check and the three signatures on the back.

By the CHAIRMAN:

Q. Was that check given in the evening or at day-time?

A. I think it was given early in the morning.

Q. Do you know why it was drawn so long before it was collected? You see it is dated the 19th.

A. It was paid on the 23d at Scott & Co's.

Q. But at Topeka, when was it paid?

A. I do not know when it was paid there; I never knew it was paid there until this matter came up here.

Q. You have heard Mr. Anderson's testimony?

A. No, sir; I have heard a portion of it.

Q. Do you not know he testified that the money on that check was obtained at night, out of banking-hours?

A. I do not know that he testified that; I cannot say what his testimony is on that subject.

Q. You drew the check in the morning?

A. My recollection would be that I drew the check in the morning; I think it was as we came from breakfast; it might have been before.

Q. Did you know that Mr. Anderson had got the money on that check?

A. No, sir.

Q. Did you know that Mr. Anderson had sworn in these words:

"The check was given by Len. T. Smith to Governor Carney. They asked me, knowing me to be a director in a bank, if I could cash it. I told them I would take it and do it as an accommodation and get the money, and I did give the money to Mr. Carney."

Q. Did you know he swore to that?

A. I presume I did.

Q. Is it true that you asked Anderson to get the money on it?

A. No, sir; I do not think it is.

Q. He says you and Governor Carney asked him?

A. I think he is mistaken; I do not think I ever had a word to say to Mr. Anderson about that. I am satisfied I did not, because I never knew about it. I think in the word "they" there he is mistaken.

Q. Was Mr. Anderson present when that check was drawn?

A. No, sir.

Q. Did you ever tell him what the consideration of it was?

A. I do not know that I ever had any conversation with Mr. Anderson about it; I do not think I ever did.

By Mr. CROZIER :

Q. I call attention to the last answer but two on page 73, showing that Mr. Anderson, in that answer, speaks of Governor Carney alone. What time do the banks in Leavenworth close ?

A. Three o'clock, I believe, is the usual hour.

Q. Do you know the course of the mails between Leavenworth and Topeka ?

A. The mail leaves Topeka about 12 o'clock.

Q. At noon ?

A. Yes, sir.

Q. What time does it reach Leavenworth ?

A. At 3.25 or 4.25.

Q. After the banks are closed ?

A. Yes, sir.

Q. Who is Mr. Boreland, whose name appears on the back of that check ?

A. Cashier of the Second National Bank at Leavenworth ?

Q. What day of the week was the 23d of January ?

A. It must have been on Monday ; the election was Tuesday.

Q. What time would that check have to leave Topeka to get to Leavenworth in time for banking-hours on Monday ?

A. I am not certain whether there is more than one mail-train from there or not ; there may be one in the morning ; if there is one leaves in the morning it would get there in time on Monday, but if it did not it would have to leave there Saturday.

Q. What time Saturday ?

A. Saturday noon.

Q. If it was cashed at the Kansas Valley National in the evening, what evening would it necessarily be ?

A. It would have to be Friday evening.

Q. Do you recollect what day of the month Friday was ?

A. Friday was the 20th, if Tuesday was the 24th.

WASHINGTON, D. C., *Saturday, February 1, 1873.*

JAMES F. LEGATE recalled.

By Mr. CROZIER :

Question. Mr. Legate, were you at Topeka during the senatorial canvass resulting in the election of Mr. Caldwell ?

Answer. I was, sir.

Q. What do you know about a political caucus during that election ?

A. I know that there was no party caucus at that time ; I know that there never has been a legislative party caucus in the State of Kansas since it was a State resulting in the election of or for the election of a United States Senator. The politics of the State are so nearly unanimously republican that they take entirely a personal character, and each man that desires to be a candidate goes up there with as many friends as he can get to go. It is in that way that there are personal caucuses, but there never has been a party caucus of that kind.

By Mr. CARPENTER :

Q. How is it with the democrats ? Are they too numerous to caucus ?

A. They are too few to caucus.

By Mr. CROZIER :

Q. What do you know, if anything, of an attempt by Mr. D. R. Anthony to obtain from Mr. Caldwell five thousand dollars, or any other sum, in consideration of aid in his election from Mr. Anthony ?

A. I know that Mr. Anthony came up there terribly opposed to Mr. Caldwell. The first time—I believe it was the first time—he came up there, he came with some instructions ostensibly for me and some others to vote against Mr. Caldwell, purporting to have been the result of the deliberations of a meeting in the ward I represented. On the morning following I learned that the meeting was composed of three individuals, and that in a whisky saloon in the city of Leavenworth, and not in that ward, and that they were published in the paper as having been resolutions passed by citizens of the ward which I represented. I told him of that, and he acknowledged it. The next night, or the next day but one, I think it was, he went to Leavenworth, and said to me as he went, he was going down there to get up a meeting to fix Mr. Caldwell and to get me instructions from the entire people of the city of Leavenworth to oppose him, and he asked me if I would consider them if he did. I said to him I would. He went down, and he returned on the two o'clock train in the night, and came to my room. He said to me then that they had gotten up a meeting and the Caldwell men had taken it by storm; that he had left the hall and gone outside and passed some resolutions, and he asked me if I would read them. I told him no. He then said to me that he would see me next morning. I saw him next morning and he said to me—using these exact words: "If Caldwell is elected, my past six years and the six years to come are a blank"; and if he is going to be elected, I am going to get some money out of him;" and he asked me if I would help. I said "No; if you want to get some money out of him you may go and talk to him yourself." He started from my room and went in the direction of Mr. Caldwell's rooms. On his return he spoke of Mr. Caldwell in very disrespectful language, and I think he used the words that he was a "niggardly whelp," and that he could not get a dollar out of him. I think that was the exact language he used. I inquired of him if he had asked him, and he said he had—

By Mr. LOGAN :

Q. Who are you speaking of?

A. Colonel D. R. Anthony, of Leavenworth.

By Mr. CROZIER :

Q. Did he mention any amount?

A. I do not know that he mentioned any amount. I am not sufficiently clear upon the subject to state that he mentioned any amount.

Q. What was to be the consideration of whatever he was to get from Mr. Caldwell?

A. He said he would go in and help him—he said he (Caldwell) was going through anyhow, and he would go in and help him.

Q. Was the money consideration, or whatever it was you are referring to, a consideration to induce him to go for Mr. Caldwell?

A. The language he used to me was, if he could get some money out of Mr. Caldwell he would go for him.

Q. Can you tell the committee where Mr. Caldwell was during the time from the meeting of the legislature until the day of the election of Senator—that is, down from the 10th to the 25th?

A. I cannot tell the committee where he was.

Q. Well, can you tell where he was not?

A. I can tell when he came to Topeka the first time, and when he left Topeka, and when he returned to Topeka.

Q. That is what I want.

A. He came to Topeka on the first day after the organization of the house of representatives; the house was organized on Tuesday the 10th, and he came to Topeka on Wednesday, the next day thereafter. He reached Topeka at noon and remained there until Friday noon. He was sick most of the time he was there and scarcely able to sit up; a part of the time unable to sit up. He returned to Leavenworth on Friday, after the organization of the house. He came back to Topeka on the Wednesday following, reaching there on the two o'clock train at night.

Q. What day would that be of the month?

A. It would be the 18th, I think, sir.

Q. The night of the 18th?

A. The night of the 18th, at 2 o'clock.

Q. Was he in Topeka the preceding Friday noon and on Wednesday night?

A. No, sir, he was not.

By the CHAIRMAN:

Q. What enables you now to recollect so correctly the precise time when Mr. Caldwell came to Topeka and went away, and the length of time he was there?

A. I am impressed with the dates for the reason I talked with him before the meeting of the legislature, before his going to Topeka, and suggested to him the propriety of his not going up until the organization of the house, and he said he would not. I know that he did not; but the next day after the organization of the house he came up to Topeka, and I took dinner with him. I know that he returned on Friday, for I know he was very ill; and I went down on the Saturday following, and he went the day before I did. I came up on Monday morning, and I expected from what he said that he would come up on Tuesday morning, and I telegraphed asking him why he did not come up, and he replied that he was too sick, but would be up the next morning. He did not come up next morning, but came up the next night.

Q. When Mr. Anthony had this conversation with you in regard to getting money out of Mr. Caldwell—I will ask you in the first place whether you and Mr. Anthony are personal friends?

A. We were at that time.

Q. Confidential friends?

A. We were confidential friends.

Q. How did he come to confide that matter to you about getting money from Mr. Caldwell?

A. He is one of that class of men who would confide it to anybody.

Q. Anybody?

A. To anybody.

Q. He came back and told you Mr. Caldwell was a niggardly character?

A. Yes, sir; he used the term "son of a b——h," which I do not want to appear in my testimony.

Q. You remember his language?

A. Yes, sir, very distinctly, because we had some words over it.

Q. Did you and he fall out at that time?

A. We fell out at that time.

Q. On that account?

A. It was on account of my going for Mr. Caldwell.

Q. You say he knew before that you were for Mr. Caldwell?

A. Yes, sir.

Q. You say that at the time you had this conversation with him you and he were confidential friends; you, therefore, had not fallen out up to that time on account of Mr. Caldwell?

A. An answer to that needs an explanation. More than a direct answer, Mr. Chairman.

Q. Very well, sir.

A. Mr. Anthony's theory was, during the fall and during the early part of the canvass, that they would go up to Topeka; and he not being a candidate thought that he would augment the strength of Mr. Walker as much as he could to get up a kind of division among the candidates for the Senate in the hope that he might be a compromise candidate and thus be elected.

Q. Walker?

A. No; he, Daniel R. Anthony; and when I said to him there was no hope for him, and that I would not go for him, but that I felt that the people of Leavenworth, and the people of Kansas, demanded that I should do all I reasonably could do consistently for Mr. Caldwell's election, he was a good deal provoked over it.

Q. You say he knew all that, however, before he told you about getting money of Mr. Caldwell?

A. Yes, sir.

Q. But I understood you to say, when he made that statement to you, you and he were confidential friends. When, after that, and about what matter, did you fall out?

A. We fell out for the reason that I would not vary from what I deemed my duty toward Mr. Caldwell, and because I would not aid him in getting some money out of Mr. Caldwell.

Q. It was upon these two points that you fell out; because you would not aid him in getting money out of Mr. Caldwell?

A. Yes, sir.

Q. And you went for Mr. Caldwell, and he fell out with you on those causes?

A. Yes, sir.

(Mr. Crozier stated that no other witnesses on behalf of Mr. Caldwell were present, but three others were expected to arrive before night.)

WASHINGTON, D. C., *Tuesday, February 4, 1873.*

THEODORE C. SEARS sworn and examined.

By Mr. CROZIER:

Q. Where do you reside?

A. In Ottawa, Franklin County, Kansas.

Q. Were you a member of the legislature in 1871?

A. I was.

Q. Of which house?

A. I was in the senate in 1871 and 1872.

Q. Do you know William Spriggs?

A. I do, sir.

Q. Have you read his testimony taken in this investigation?

A. I read it last evening, sir.

Q. Do you know Mr. Len. T. Smith?

A. Yes, sir.

Q. What conversation, if any, did you have in the senatorial canvass in Kansas in regard to the selling of your vote, with Mr. Smith?

A. I never interchanged a word with Mr. Smith during the entire senatorial contest, upon the subject—nothing except to interchange the ordinary courtesies of the day.

Q. What offer, if any, did you have of twenty-five hundred dollars, or any other amount, in consideration of your vote for Mr. Caldwell or any other person—from him or any other person for him?

A. No person, no man of any sort or description—nobody ever approached me in reference to my vote. The first information I had of it was here, nor was any communication whatever made to me directly or indirectly on that subject.

WASHINGTON, D. C., *Tuesday, February 4, 1873.*

ISAAC D. CLAPP sworn and examined.

By Mr. CROZIER:

Question. Where do you reside?

Answer. In Gardner, Johnson County, Kansas.

Q. How long have you lived there?

A. Six years.

Q. Were you a member of the legislature of Kansas in 1871 when Mr. Caldwell was elected to the Senate?

A. Yes, sir.

Q. Of which house?

A. The lower house.

Q. From what county?

A. Johnson County.

Q. Do you know Mr. G. G. Gage?

A. I do.

Q. Where does he reside?

A. In Topeka.

Q. How long have you known him?

A. I came to Topeka in August, 1865, and I resided there until November, 1866, when I removed to Johnson County.

Q. Where you now reside?

A. Yes, sir.

Q. Had you any acquaintance with Mr. Gage previous to going to Topeka?

A. I had; we were intimately acquainted.

Q. I will ask you what conversation there was between you and him during the pendency in regard to the sale of your vote to Mr. Caldwell?

A. The first conversation I had in regard to the senatorial contest was at the Gordon House. He approached me with what I supposed was a matter of information, and told me there was much money being used, and says, "Clapp, you can just as well make some money as not." That was the first conversation.

Q. What did you reply to that?

A. I asked him, "How can I make money?" He said, "By voting for the right man."

Q. Did he name the man?

A. No, sir; nothing was said.

Q. Was that all of that conversation?

A. That was all.

Q. Upon that subject?

A. Upon that subject.

Q. Where was the next, and what was that?

A. The next conversation we had was when we accidentally met at the head of the stairs in the capitol building, and after passing time of day he says, "Clapp, who are you going to vote for?" This was the day previous to the informal ballot; I think it was on Monday. He says to me, "Clapp, who are you going to vote for?" I said I was going to vote for Mr. Crawford. He says, "You can just as well make some money as not." I says, "How much?" I says to him, "Mr. Gage, would you advise me to sell my vote, or to take money for my vote?" "Well," he says, "You can do as you are a mind to about that;" that was all that was said in regard to it.

Q. Was there any other conversation between you and Mr. Gage in regard to selling your vote?

A. No, sir; none whatever.

Q. Did you ever approach Mr. Gage and state to him that you had been offered money for your vote, and ask his advice as to whether you should take it?

A. I did not.

Q. Did you ever tell him that Mr. Smith, or any other person in the interest of Mr. Caldwell, had offered you twelve hundred dollars for your vote?

A. I did not.

Q. Who did you vote for in the joint convention?

A. For Mr. Caldwell.

Q. What reason induced you to change your vote from Mr. Crawford to Mr. Caldwell?

A. There was a large delegation from our county during the contest, and on the first ballot I voted for Mr. Crawford; I was personally acquainted with him; they importuned me to vote for Mr. Caldwell; I told them I could not; I was going to vote for Mr. Crawford; then on the morning at the joint ballot I still intended to vote for Mr. Crawford, and they still kept at me to vote for Mr. Caldwell.

Q. Who do you mean kept at you?

A. I mean the delegation from Johnson County—my constituents; that caused me to change my vote for Mr. Caldwell.

Q. What reason did they give for wanting you to vote for Mr. Caldwell?

A. There has been, a long time, talk about building a railroad from Leavenworth to Olathe, our county-seat, and they were anxious that Mr. Caldwell should be elected, thinking that he, being from Leavenworth, would have more influence with the railroad-men to have the road constructed.

Q. Was that the sole reason or consideration brought forward to induce you to change your vote to Mr. Caldwell?

A. It was.

By Mr. CLARK:

Q. Mr. Gage testified before this committee that you stated to him that Mr. Smith had offered you twelve hundred dollars to vote for Mr. Caldwell, in case Mr. Caldwell was elected; otherwise, there was offered you eight hundred dollars to vote for Mr. Caldwell, and if Mr. Caldwell was elected he would pay you the other four hundred dollars.

Now can you explain how that statement could have arisen in Mr. Gage's mind growing out of your conversation?

A. I never had any conversation in regard to that whatever. No man ever approached me to purchase my vote in any manner, directly or indirectly.

Q. Then you cannot explain how the eight hundred dollars and four hundred dollars were fixed upon by Mr. Gage?

A. I cannot; I never had any conversation of the kind.

WASHINGTON, D. C., *Tuesday, February 4, 1873.*

WILLIAM WILLIAMS sworn and examined.

By Mr. CROZIER:

Question. Where do you reside?

Answer. In Olathe, Johnson County, Kansas.

Q. Were you at Topeka during senatorial canvass resulting in the election of Mr. Caldwell?

A. I was.

Q. In what capacity were you there?

A. I was a member of the lower house.

Q. What conversation, if any, did you have with Governor Carney—but first, do you know Governor Carney?

A. Yes, sir.

Q. What conversation did you have, if any, with Governor Carney in regard to a promise of money for your vote for Mr. Caldwell, made by Mr. Len. Smith?

A. I never had any conversation in regard to that with him.

Q. Mr. Carney testified here, the other day, that you were asked about your vote, and you stated to him that Mr. Len. Smith had promised you money for your vote for Mr. Caldwell, and you asked whether Mr. Smith was a reliable man. Did any such conversation ever take place between you and Mr. Carney? If so, when and where?

A. It did not. I had no such conversation.

Q. Were you, as a matter of fact, ever offered money for your vote by anybody?

A. I was not, sir.

By Mr. CLARKE:

Q. Were you acquainted with Mr. S. E. McKee, of the Olathe Mirror?

A. Yes, sir.

Q. Is he living?

A. No, sir.

Q. Did you ever have any conversation with him in regard to your vote?

Mr. CROZIER. That is not a proper question.

The CHAIRMAN. The fact that McKee is dead does not make the question improper.

By Mr. CLARKE:

Q. Did you ever have any conversation with him, or any other person in Johnson County, in reference to your receiving money for your vote for Mr. Caldwell?

A. No, sir.

THE COURT.

THE COURT.

THE COURT.

THE COURT.

THE COURT.

Q. Did you pay to Mr. McKee the sum of two hundred dollars, representing it to be a portion of the money received for your vote for Mr. Caldwell?

A. I never paid Mr. McKee a cent received for my vote or any other amount.

Q. Did you pay him the sum of two hundred dollars?

A. No, sir; I did not.

Q. Did you erect, or commence the erection of a building in the city of Olathe very soon after your return from Topeka?

A. I did, sir.

Q. What was the name of that building? By what name was it known in Olathe, Johnson County?

A. Well, during the heat——

Q. I ask what name the building is known by in the community there? Is it not known by the name of the "Caldwell Block?"

A. Yes, sir; I have heard it called that.

Q. Is it not generally known by that name?

A. Well, I don't know how generally the name has been applied to the building, but then I have heard it from others.

Q. Is it not so known throughout the State?

A. I can't tell how it is known throughout the State.

Q. Did you have any conversation with Mr. J. L. Winds, formerly county attorney of the county, with reference to the disposition of your vote?

A. No, sir.

Q. Or with Mr. T. J. Hadley with reference to the disposition of your vote?

A. No sir, I did not.

Q. Did you ever say to Mr. Hadley that if elected you wanted to make some money out of your vote and would divide with him?

A. No, sir.

Q. Did you ever make such a statement to Mr. McKee?

A. No, sir.

Q. Or to Mr. Winds?

A. No sir.

The CHAIRMAN. That is all, Mr. Williams.

The WITNESS. I would like to make a statement.

The CHAIRMAN. Go on, you may do so.

The WITNESS. I will state as a matter of fact that I ran as an independent candidate in that district, and when I was elected Mr. McKee kept the regular republican ticket at the head of his paper and supported Mr. H. A. Taylor, the candidate against me, keeping his name all the time at the head of his paper. I might produce the papers from the files to show it by the newspapers; he supported him all the time of the election, and it is hardly likely under those circumstances that I would offer a man two hundred dollars for working against me.

The CHAIRMAN. Anything else?

The WITNESS. I wish to state that I had a wooden building—a business building—in Olathe, in a wooden row, which I sold. I had some other property there, some lots and a dwelling-house, which I sold, and I erected this brick building. It may have been the great mistake of my life, but right away after I had been a member of the legislature, and a Senator of the United States was elected, I went on according to my previous arrangement and built that building. I would do it again under the same circumstances.

WASHINGTON, D. C., *Tuesday, February 4, 1873.*

Dr. W. THOMAS sworn and examined :

By Mr. CROZIER :

Q. Doctor Thomas, where do you reside ?

A. In Leavenworth City.

Q. What is your business ?

A. I am a practicing physician and surgeon.

Q. Do you know Mr. Caldwell ?

A. Yes, sir, very well.

Q. Do you know where Mr. Caldwell was on the 17th of January, 1871 ?

A. He was in his sick-chamber ; sick.

Q. Where ?

A. At his residence.

Q. Where ?

A. In Leavenworth.

Q. You say he was in his sick-chamber ?

A. Yes, sir ; at his residence in Leavenworth.

Q. How long before and after January 17, 1871, was he at home ?

A. Mr. Caldwell was at home——

The CHAIRMAN. First, what day did the ballot take place ?

Mr. CALDWELL. On Tuesday, the 24th.

By Mr. CROZIER :

Q. How long preceding the 17th and subsequently thereto was Mr. Caldwell in Leavenworth ?

A. To the best of my knowledge, from Saturday, 17th, to the following Monday, inclusive. He was in his sick-chamber at his residence in Leavenworth.

Q. Were you in his sick-chamber on the 18th ?

A. I was.

Q. Was he there ?

A. He was there.

By the CHAIRMAN :

Q. How do you remember the precise time ?

A. My memory has been refreshed by reference to my account-book, and noting this attendance on Mr. Caldwell.

Q. Did you charge him at each visit ?

A. I did.

Q. On the day it was made ?

A. Yes, sir.

Q. If you had not referred to that could you state the exact time ?

A. No, sir, I could not.

By Mr. CROZIER :

Q. Have you a recollection of Mr. Caldwell being at home about that time without reference to your books.

A. Yes, sir ; my recollection is perfectly distinct. He was at home at that time, but I cannot state the dates, without reference to the book.

Q. You recollect his being at home during the pendency of the canvass ?

A. Yes, sir ; it was very nearly the time of the vote.

By Mr. TRUMBULL :

Q. You mean part of the canvass—not all the time during the canvass ?

A. All the time I knew of was on the 14th and up to the 18th, to and including the 18th.

By Mr. CLARKE :

Q. On what day was the 18th ?

A. The 18th was on Wednesday, I think, sir.

Q. Do you know whether Mr. Caldwell left there on the morning of the 3d, or the evening of the 3d ?

A. If he left on Wednesday he left at night. I have charged him with two professional visits on Wednesday. He may have left late in the evening or night, but certainly not in the morning.

WASHINGTON, D. C., *Tuesday, February 4, 1873.*

Mr. CROZIER. I call attention to the testimony of Mr. William Spriggs, given before the investigating committee at Topeka, so far as it appertains to the election of Mr. Caldwell, and ask that it be made a part of the record here. The object of this is this: Mr. Spriggs has testified to a number of things here which he did not testify to before the investigating committee at Topeka, and I want the advantage of the discrepancy in the statements.

The CHAIRMAN. There is no objection. You will point out the parts of his testimony that you desire to call attention to.

Mr. CROZIER. I refer to page 242 of the testimony accompanying the report of the joint committee of investigation appointed by the Kansas legislature of 1872 to investigate all charges of bribery and corruption connected with the senatorial election of 1871. The testimony is as follows :

“ MONDAY, *February 19, 1872.*

“ WILLIAM SPRIGGS, being sworn, testified as follows :

“ Examined by the CHAIRMAN :

“ Q. Where do you live ?

“ A. Near Garnett, Kansas.

“ Q. Were you here last winter during the senatorial election ; and, if so, do you know of the use of any money in that election to influence the votes of members on the vote for United States Senator ?

“ A. I was here ; I do not know of my own knowledge.

“ Q. Did any one tell you of the use of money in that election ; if so, state what was told you—state all about it ?

“ A. Well, Frank Drenning said that he placed two thousand dollars in the hands of the treasurer of Nemaha County to be delivered to the two members of the house from Nemaha County if they voted for Mr. Caldwell for Senator ; that if Mr. Caldwell had not been so slow, he would have got them for \$1,000—five hundred each. After the election was over Mr. T. J. Anderson wanted me to take an order to Garnett on Mr. Carson. He said a member from Linn County (Crocker, I think,) had received of him one thousand dollars to vote for Mr. Caldwell. He said that James D. Snoddy had brought such a pressure upon Crocker that he had backed down and got alarmed, and delivered the \$1,000 to Carson, to be delivered to him, (Anderson,) and Carson had failed to do it. I refused to take the order. George Smith, of Leavenworth, Kansas, told me that he had paid out little over twenty thousand dollars to different members of the legislature for their votes for

Mr. Caldwell; that it was his own money; that he paid it at the request of Mr. Caldwell, and that Mr. Caldwell was to refund it to him.

"Q. Did Drenning say where he got the money, or who authorized him to pay or deposit the money?"

"A. He said Caldwell could have saved one-half of this sum if he had not been so slow.

"Q. Did Anderson say he had paid part of the money to Crocker, or that he had paid it to him through Carson?"

"A. I can't be positive about that, but the impression is that he had paid it to Crocker himself.

"State, if you know, what Len. T. Smith was doing here last winter during the senatorial canvass?"

"A. He was engineering Mr. Caldwell's election. I think Len. T. Smith and Caldwell roomed together. I supposed Len. T. Smith to be Caldwell's heaviest banker.

"Q. For whom were you working last winter in the canvass?"

"A. I just came here with a view of working for Governor Crawford. If Carney was a candidate, I intended to work for him. I thought Governor Crawford had no chance, and I went to work for Caldwell about a week before the election.

"Q. Did Anderson tell you whose money the \$1,000 that he wanted you to get of Carson was?"

"A. No, he did not; I think I learned from him at that time, or at some other time, that the Kansas Pacific Railway Company was assisting Caldwell."

Mr. CROZIER. I have an affidavit from the Hon. Samuel C. Pomeroy, which I desire to offer as evidence. I expected that Mr. Pomeroy would be engaged at Topeka at this time and could not be present, and therefore have his affidavit. It is in relation to a conversation with Mr. Clarke in this city, subsequent to the election of Mr. Caldwell, and declarations of Mr. Clarke concerning that election.

(The affidavit was here submitted and read to the committee.)

Mr. CLARKE. I was in the city at the time referred to in that affidavit, and called almost daily at that time at Mr. Pomeroy's house, and I am surprised that I was not informed that any affidavit of that kind was being taken.

Mr. TRUMBULL. Are you willing to admit that Mr. Pomeroy, if here, would make that statement?

Mr. CLARKE. I should certainly want to cross-examine him upon it. I am willing to admit that Mr. Pomeroy probably desired to make the statement correct, but if I had been present I should have crossed examined him, as the language given as mine is not correct.

The CHAIRMAN. To what point do you offer this affidavit, Judge Crozier?

Mr. CROZIER. It is to contradict Mr. Clarke's statements on the point referred to in the affidavit.

The CHAIRMAN. I suppose if that is the object it cannot come in, as Mr. Clarke has no opportunity to cross-examine Mr. Pomeroy, nor has the committee.

Mr. CLARKE. I desire again to call the attention of the committee to the testimony of the Honorable John P. Usher, as taken before the joint committee of investigation appointed by the Kansas legislature.

The CHAIRMAN. I understand that it is agreed that Mr. Usher would give this testimony if he were here, but Mr. Caldwell does not consent to the admission of it as testimony.

Mr. CROZIER. We object to the competency of it as testimony, but

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we admit that if Mr. Usher were here he would say what is there put down. But we object to it as all hearsay.

Mr. CLARKE. The only reason for wanting to have it go before the committee is because Mr. Perry, whose declarations are given, is now in Europe and cannot be reached.

"JOHN P. USHER, having been sworn, testified as follows:

"Examined by the CHAIRMAN:

"Q. Did you hear any conversation at any time between Mr. Perry, president of the Kansas Pacific, and Mr. Alexander Caldwell, in relation to the payment of any money by the company as a part of the expense of the election of Mr. Caldwell for United States Senator?

"A. I did not. I do not think I have seen them together since the election.

"Q. Did you have any conversation with Mr. Perry, president of the road, in which he stated that Mr. Caldwell claimed that the road should pay an amount of money to go to pay his election expenses?

"A. Yes, I did.

"Q. When and where was that conversation?

"A. According to my recollection it was the last time I saw Mr. Perry. I met him up the road in a car when he was coming down from Denver the other day.

"Q. What did Mr. Perry tell you?

"A. He said (as well as I can remember) that after Caldwell's election he went up to Leavenworth to see him, and congratulated him on his election, and to his surprise Caldwell told him that he wanted him to pay \$30,000, which he (Mr. Perry) declined to pay. Mr. Perry said he was very much surprised at the demand, and so expressed himself to Caldwell, intimating that as he had been successful, and had been elected United States Senator, that was honor enough, without making a demand of that sort of him, and he should not respond to it at all.

"Q. Did Mr. Perry in that conversation say anything about seeing Colonel Dennis and Mr. Anderson in regard to any promises which Mr. Caldwell claimed to have been made by these gentlemen for the Kansas Pacific Railroad?

"A. Yes, he did.

"Q. State what.

"A. He said, as I understood him, that Caldwell claimed that he was justified in making that demand in consequence of some promise that he had had here from Mr. Perry's friends.

"Q. Are you able to state any other part of that conversation which you have not already stated, judge?

"A. He said that he did not believe it, and they would come up here and see whether it was so or not; he wanted to know. Accordingly they did come. Len. Smith and Caldwell came, as I understand.

"Q. Do you know what the result of the inquiry was?

"A. He said that these gentlemen did not admit what Caldwell said, but did not stand as square as he would have liked them; that he was not satisfied but that there might have been something said, but at any rate he would not pay anything.

"Q. Did Mr. Perry, in any part of this conversation, state to you the ground or the purpose upon which or for which Caldwell made this demand?

"A. I don't know as he did. I do not know as he said why, or whether

he was out so much, or what he said about it. At any rate he was importunate for the money, and came once or twice about it.

"Q. Did Mr. Perry state what Caldwell claimed the promise was that he said was made by Dennis and Anderson?"

"A. I do not think Mr. Perry explained that."

The further hearing of this case was postponed until Tuesday, February 4, 1873.

WASHINGTON, *Tuesday, February 4, 1873.*

GEORGE B. SHERWOOD sworn and examined.

By Mr. CROZIER:

Q. Where do you reside?

A. I reside at the city of Leavenworth, Kansas.

Q. Do you know Governor Carney?

A. I am slightly acquainted with him; very slightly.

Q. Do you know Mr. Jeremiah Clark?

A. Yes, sir.

Q. Do you recollect a conversation between Jeremiah Clark and Mr. Carney, at which you were present, at Jake Steinbaugh's saloon in Leavenworth?

A. I do, sir.

Q. State to the committee what Mr. Carney said in your hearing, if anything, with reference to ousting Mr. Caldwell from his seat in the Senate.

A. He stated distinctly that he would oust Mr. Caldwell, and then specified in the plural that "we would oust him," and then that "he would be ousted."

Q. What was his manner in making that statement?

A. The manner was rather sincere, I think.

Q. Was he at all demonstrative about it?

A. Not vehemently so.

By the CHAIRMAN:

Q. Who else was present?

A. Mr. Jeremiah Clark and myself were together at the time.

Q. Where did the conversation take place?

A. In this saloon. We had been out on some business with Mr. Clark. I had met the governor.

Q. How did the conversation begin?

A. It commenced by a personal conversation, mostly of a personal character, between Mr. Jeremiah Clark and Governor Carney. They had some litigation in which Governor Carney held an adverse interest in the property in which he resides.

Q. What else was said by Governor Carney?

A. Well, the conversation went on and was on various kinds of subjects; a part of it was the personal matter of their suit; afterward Mr. Jeremiah Clark said to him that he had injured him to a certain extent in his election six years before.

Q. That he, Clark, had injured Governor Carney?

A. Yes, sir; that he did not get the number of votes he wanted.

Q. That Carney had not got the number of votes he wanted; that Clark had injured him?

A. Yes, sir; Carney turned around and said that he did not amount to anything; that he knew nothing about it. He told Clark so. Then

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Mr. Clark asked him the question if General Lee, that I am not acquainted with, did not injure him to a considerable extent at the same election, and he made the singular remark that "he did not amount to a fly on a bull's back."

Q. That General Lee did not?

A. Yes, sir; he told Mr. Jeremiah Clark that he was not present at that time, and did not know anything about it.

Q. Do you mean that Carney told Clark that Clark did not know anything about and did not amount to anything?

A. Yes, sir.

Q. Did he give any reason why Mr. Caldwell should be ousted?

A. Yes, sir.

Q. What was it?

A. He said that during that election, six years ago, he had given Len. T. Smith, of Leavenworth, \$25,000 to secure him ten votes, and that Len. Smith had turned round and sold him out; that Caldwell was in with Len. Smith, and connected with him, and that he was a damned scoundrel, or something of that kind.

Q. Did he say they had kept the money?

A. He said Len. Smith did keep it; that he turned round and sold him out, and kept it at the same time.

Q. Did he seem indignant about it?

A. Well, the conversation was not really quarrelsome. It was as I said before, a sincere conversation.

Q. He seemed to be in earnest?

A. Yes, sir; on both sides.

Q. Did he seem to be in earnest in that statement about Len. Smith keeping his \$25,000?

A. Yes, sir; in the whole conversation.

Q. Did that conversation with Jeremiah Clark seem to be of a friendly character?

A. The way it originated was, the governor had spoken rather brusquely to me, and had come down and followed us. It was in front of his house we met the governor; he followed me down to apologize.

Q. Had the governor had any trouble with you?

A. No, sir, not very much; he spoke rather harsh to me when I was there.

Q. What was the difficulty you had with him?

A. That afternoon—my business is in Fort Leavenworth, but I reside in the city. I come down every afternoon at 4 o'clock when I get through my business at the fort.

Q. What is your business?

A. Civil engineer in the Quartermaster's Department; and I came down and Mr. Clark came to my house and said, "I have been thinking over who I could find to get their opinion about certain matters that I am doubtful about;" it was about the retaining walls around this block that was in litigation. He asked me if I had any objections to taking a walk around with him. I had had no dinner then—my dinner hour is five—and so I said no. I am acquainted with Mr. Clark to a certain extent, and I walked around with him; he asked me if I had any objection to measuring around the block. I said no, and we measured around until we came in front of Governor Carney's residence. When we got in front, Mr. Clark asked me if I knew the elevation, or if I could tell the elevation from the front to the base of his house. I said it could be easily arrived at by the steps; I measured the rise and it gave the elevation by counting the steps. I started from the plank walk in front.

Mrs. Carney came out first, and I think one of Governor Carney's boys, and went back and reported the fact to Governor Carney, and he came out while I was in the act of measuring. He asked me, "What are you measuring there?" I said, "From the top to the sidewalk." He said, "What do you call that?" I said, "I call it the grade of the sidewalk which I am measuring from." He said, "You are a damned fool, sir."

Q. That was not true, was it?

A. That is not for me to say; it seemed to me not. I said, "Governor, I did not come here for the purpose of discussion; I have no business with you whatever;" and I said to Mr. Clark, "We have got through, we will go on." I paid no attention to Governor Carney's remark; I thought the remark was uncalled for; but that is the first time I knew Governor Carney except through business transactions, but not directly with him.

Q. You attributed his temper to the fact that you measured by his house?

A. Yes, sir; measuring by his house at that time. He came down and apologized after we got down to the northwest corner of the block on Fifth street. He apologized and said, "I have been rather harsh with you;" and I accepted the apology.

Q. Then did you all go in the saloon and take a drink?

A. I was going to my lunch, and Mr. Clark was going with me. I went to the saloon for the purpose of lunch. I have been in the habit of doing so when I passed my dinner hour on this walk. Governor Carney asked us to take a glass of beer, and we took a solitary glass; that was all; and I ate lunch.

By Mr. TRUMBULL:

Q. You did not explain how Governor Carney got upon Mr. Caldwell's election. You stated that he said that "Mr. Lee did not amount to as much as a fly on a bull's back," and "Mr. Clark was of no account." How did that lead to talking about Mr. Caldwell?

A. It commenced by Mr. Jeremiah Clark's observation to Mr. Carney. They had been talking over private matters, which I did not pay much attention to. They had been talking upon them, and Mr. Clark made the observation, "Governor," I think he observed to him, "I helped you over the left."

Q. What is that?

A. He said, "I helped you over the left in your election six years ago."

Q. What followed?

A. Governor Carney said to him, "You do not know anything about it, sir."

Q. Go, on; state how they got to talking about Mr. Caldwell.

A. He said, "You do not amount to anything; you do not know anything about it." And then Mr. Clark made the remark about Governor Lee, whom I do not know. I asked him, afterward, about that.

Q. What then?

A. He said, "Did not Governor Lee hurt you?" He says, "You do not know anything about it; he did not amount to a fly upon a bull's back."

By the CHAIRMAN:

Q. That Clark did not or that Lee did not?

A. That Mr. Clark did not. He said that General Lee did not hurt him; that he was absent at the time for two days before the transaction.

By Mr. TRUMBULL:

Q. What next?

A. Do you mean after that?

Q. Yes; go on.

A. Then he brought up the subject of Len. T. Smith.

Q. Who brought it up?

A. Governor Carney.

Q. He then commenced abruptly talking about Mr. Smith?

A. Continuing the subject.

Q. How?

A. He said, "I paid Len. T. Smith \$25,000 and he"—

Q. You need not repeat over again what you have testified to on that subject. What was the occasion of it?

A. The subject was continued. "I paid Len. T. Smith \$25,000, and he turned around and sold me."

Q. What did Mr. Clark say then?

A. That is what Mr. Carney said.

Q. What did Mr. Clark say about it?

A. He did not say anything at that particular time that I remember. He said, "Mr. Caldwell is in along with Mr. Len. T. Smith, and he is a damned scoundrel, and I shall oust him;" or, "We will oust him, and he will be ousted."

Q. Did Clark say that?

A. No; Governor Carney said that; "so that he won't retain his seat in the Senate."

Q. Was that after the investigation had been commenced against Mr. Caldwell?

A. That I do not know; I did not keep the run of these things at all.

Q. Was it after Mr. Caldwell was elected to the Senate?

A. Yes, sir; after he was elected.

Q. Was it after the investigation into the manner of his election?

A. Yes, sir; it was only about ten weeks since.

Q. Just after the last fall election?

A. I think it was about a week prior to the fall election; the first Tuesday in November.

WASHINGTON, D. C., *Saturday, February 1, 1873.*

A. C. VAN DYN sworn and examined.

By Mr. CROZIER:

Question. Doctor, where do you reside?

Answer. In Leavenworth.

Q. What is your business?

A. I am a physician.

Q. Do you know Governor Carney?

A. Yes, sir.

Q. Do you know Jeremiah Clark?

A. Yes, sir.

Q. Mr. Sherwood, who was just on the stand, also?

A. I do.

Q. Did you hear Mr. Sherwood's testimony a moment ago?

A. I did.

Q. Do you recollect the occasion to which he refers?

A. I do.

Q. How do you happen to recollect it?

A. I was passing up Fifteenth street, by Stinbaugh's saloon, and saw Governor Carney and Mr. Clark there, and stopped there a moment with Mr. Sherwood and Governor Carney; they were just coming away. Mr. Carney went up the street with me—went up to my office.

Q. Had you some conversation with him as you went along, and in your office?

A. I had.

Q. What, if anything, did Governor Carney say in that conversation about removing or having Mr. Caldwell removed from his seat in the Senate?

A. He said he was bound to be removed, and nothing could help it, and he ought to be removed.

Q. What was his manner?

A. He had a good deal of personal feeling about it.

Q. As though he meant what he said?

A. Yes, sir.

Mr. CROZIER. The only remaining matter we have to present is the statement of Mr. Caldwell; but we do not desire to present it until we know that the testimony on the other side is all in.

The CHAIRMAN. Are the books of Scott & Co. here?

Mr. CROZIER. Mr. Scott is here, and he sent them on Wednesday, I believe, but they have not arrived yet.

The CHAIRMAN. We would like to examine them when they arrive, though I do not think it will make any material difference if they are examined after the statement of Caldwell is made. Mr. Caldwell may come back on the stand and add to his statement anything he may choose in explanation of whatever may appear in these books. If Mr. Daniel M. Adams should come—of which I have very little expectation—he may be examined, and Mr. Caldwell may have the same privilege in regard to his testimony. Mr. Caldwell shall have the largest liberty to answer anything that may be brought in hereafter, but I do not know that we shall wait any longer for anybody else. I would like to ask Judge Crozier some questions.

Mr. CROZIER. We now offer an affidavit of Mr. Butler, who is a member of the legislature, whose name has been mentioned in evidence.

The CHAIRMAN. Let it be read.

The affidavit was read as follows:

TOPEKA, STATE OF KANSAS,

January 27, 1873.

I, C. B. Butler, do solemnly swear that the facts herein set forth are true in every fact and particular.

I was a member of the house of representatives of State of Kansas in 1871, and participated in the election of United States Senator. I voted for Thomas P. Fenlon on the first ballot, as a democrat. On the second ballot I voted for Alexander Caldwell for United States Senator. I never had any conversation with Thomas Carney or George Smith, or either of them, about me supporting Caldwell in consideration of a note of mine for \$850, or any amount being paid. Neither did I have any conversation with Mr. Caldwell or any person representing him on the subject. Neither did any person as representing me have any conversation on the subject. I further state that I had no such note out, neither for that sum nor for no other sum approximating it. I had no note out in the State at the time, nor no time immediately before or since. I fur-

ther state that I never received a cent for my support of Alexander Caldwell, neither directly nor indirectly, neither by him nor any person representing him, neither myself nor no person in trust for me. I further state that I never received a cent nor any valuable thing from any candidate for United States Senator before the legislature in 1871 of this State, nor from any person representing or purporting to represent them or either of them. Neither did any person for me ever receive anything for my vote, either directly or indirectly. I intend this affidavit to cover all the ground wherein it is charged my vote was corruptly obtained for Alexander Caldwell, and to absolutely and unqualifiedly deny, in each and every particular, any such fact or facts.

C. B. BUTLER.

STATE OF KANSAS,
OFFICE SECRETARY OF STATE,
Topeka, Kansas, January 27, 1873.

Sworn and subscribed before me, the undersigned, secretary of state of the State of Kansas, this day and year first above written.

W. H. SMALLWOOD,
Secretary of State.

WASHINGTON, D. C., *Saturday, February 1, 1873.*

ROBERT CROZIER recalled.

By the CHAIRMAN :

Q. I want to ask you, Judge Crozier, if, while at Topeka, you drew twelve hundred dollars from the bank there ?

A. Yes, sir.

Q. That was during the senatorial canvass ?

A. Yes, sir.

Q. For what purpose ?

A. Mr. Smith came to me after the election, Wednesday evening—about four o'clock I should say it was—and said to me, "Judge, can you get me twelve hundred dollars ? I want to pay some bills." I told him I thought I could, and I stepped out and met Mr. Jacob Smith on the sidewalk just as I stepped out of the Tefft House.

Q. Was that Mr. Jacob Smith a banker ?

A. Yes, sir ; the gentleman who testified here. I asked him if he could give me twelve hundred dollars. He said he could. We walked down toward the bank. I stepped into his hardware store, the adjoining room, and wrote a check on my bank at home. Mr. Smith went in and got the money and brought it out and gave it to me.

Q. You gave your own check for it ?

A. Yes, sir.

Q. Was not Mr. Smith a gentleman of good credit there ?

A. Yes, sir. To state the whole matter : The day we got home—Thursday morning, probably—Mr. Smith and I went down together, all of us on the train—he came into the bank on Thursday morning and handed me the twelve hundred dollars.

Q. When was that ?

A. On Thursday morning, after we got home.

Q. Do you know why he did not get that money on his own check ?

A. I do not.

Q. Do you know any reason why he did not ?

A. I do not ; unless it would be that it was after banking hours, and

the bank at which I got it were correspondents of ours. I know of no other reason.

Q. It was after banking hours, you say?

A. Yes, sir; about 4 o'clock.

By Mr. CLARKE:

Q. Does this check appear in the account examined here on Saturday by Mr. Comstock?

A. No, sir; for the reason that when I got down there Mr. Smith handed me the money, and when the check came from our correspondents I took the check and tore it up, so that it did not appear.

By the CHAIRMAN:

Q. The transaction does not appear on your books at all?

A. No, sir; there is no necessity for it for that reason.

STATEMENT OF MR. CALDWELL.

Mr. CALDWELL. What I have to say I have reduced to writing, and, with your permission, I will have it read before the committee.

(The statement of Mr. Caldwell was read to the committee, as follows:)

"I went to Kansas from Pennsylvania in February, 1861, and immediately engaged in the transportation of military stores from the Missouri River to the military posts in Kansas, Colorado, Utah, New Mexico, and the Indian country. I continued in this, and the general business appertaining thereto, until 1866, at which time I commenced the construction of railroads, and the purchase, improvement, and sale of real estate, farming operations, &c. My extensive business relations necessitated an extensive personal acquaintance. My friends of the republican party, with which I had been connected since its organization, frequently importuned me to become a candidate for office—first for the House of Representatives, afterward for the Senate; and among the reasons assigned was that, as I had never been a candidate for office, my candidacy would not be likely to provoke the bitter antagonisms which usually prevail among political factions.

"In the fall of 1870, as the time approached for the election of a successor to Hon. E. G. Ross, I was requested by about two hundred of the most respected and influential citizens of the city in which I reside to permit the use of my name as a candidate for the Senate. This request came to me in the form of a card, which was subsequently published in the newspapers, and was followed by similar requests from influential persons in different parts of the State. I hesitated some time before consenting, but finally yielded to the urgent appeals of my friends at home and throughout the State. The circumstances will be better understood from a brief statement of the condition of things in the State at the time referred to.

"Leavenworth is the chief city of Kansas, and her citizens for eight or ten years had been making earnest efforts to elect one of their own number to the Senate of the United States. It was conceded generally that Leavenworth was entitled to one of the delegation in Congress, and reliable assurances had been given that when her people should unite in presenting a candidate other parts of the State would aid in his election. Mr. Sidney Clarke was a candidate for the Senate, but a very bitter feeling had grown up against him throughout the State, so much so that the watchwords of the campaign were "Clarke" and "Anti-Clarke." Mr. Thomas Carney was also a candidate and a

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citizen of Leavenworth, and had on two previous occasions been supported by the people thereof without success. His repeated contests had engendered animosities which rendered a cordial union in his behalf impossible. Mr. Carney, being displeased with my candidacy, made several efforts to induce me to retire from the contest, asseverating his determination to remain a candidate, which would probably result in the disappointment of the hopes and wishes of the people of the city. I replied that I had been brought forward by the citizens of the city, and would receive a large support from other portions of the State, and having publicly consented to become a candidate I would under no circumstances decline. He complained that he had been for ten years striving to get to the Senate; that he had expended large sums of money in politics, and that a considerable number of persons friendly to his interest had been chosen to the legislature, and consequently that it was requiring of him a great personal sacrifice to abandon the contest under such circumstances.

"An interview, solicited by Mr. Carney, took place in the parlor of the First National Bank of Leavenworth between himself, myself, Mr. L. T. Smith, and Mr. Lucien Scott, at which Mr. Carney, after considerable discussion, stated that inasmuch as I appeared determined to remain a candidate, he had concluded to retire if he could be re-imbursed to the extent of fifteen thousand dollars for expenses incurred in previous campaigns, or that he would cheerfully give me twice or thrice that amount if I would retire. I declined to accept either of these propositions, and we separated. Things remained in this condition until the legislature met, when Mr. Carney went to Topeka as a candidate. A few days thereafter I was informed by Mr. Smith that Mr. Carney was still willing to retire if he could be re-imbursed for his previous political expenditures to the amount above named. I had no talk with Mr. Carney on the subject, but finally consented that the arrangement might be consummated, and it was consummated by Mr. Smith. Subsequently, and before the obligations given for the payment of the money referred to became due, some of my intimate friends, learning what arrangements had been made, offered to contribute the money necessary to take up the paper; but rather than place myself under obligation to others I preferred to pay it myself, and did so pay it.

"Having made this preliminary statement, I now desire to refer specifically to some of the testimony taken in this case.

"I pronounce the statements of Sidney Clarke, D. R. Anthony, Thomas Carney, and W. S. Burke, that I admitted to them, or either of them, or any other person or persons, friend or enemy, that my election to the Senate cost me sixty thousand dollars, seventy-five thousand dollars, or any other large sum of money, or that I, or L. T. Smith, in my presence, ever declared that I would have the Senatorship if it cost me two hundred and fifty thousand dollars, as entirely false in every particular; and I deny emphatically that I ever made any admission to them, or either of them, or to any other person, that I had paid any sum or sums of money to any member of the legislature, or to any person for such member, in consideration of his vote for me; or that I ever promised to pay, or agreed to give, any valuable consideration to any member of the legislature, or to any person for such member, in consideration of his vote for me for Senator. The persons above named were at the time of the alleged admission, ever since have been, and now are, on terms of personal enmity to me, with whom I had no confidential relations whatever, and with whom, in the very nature of things, such relations could not have existed.

"I never agreed with Robert S. Stevens to pay his expenses or those of his friends, nor those of Sidney Clarke or his friends, nor was there any good reason for such an agreement. Early in the evening of the day on which the first ballot was taken I learned that some of the most ardent supporters of Sidney Clarke had determined to abandon him and give their support to the candidate whose chances of success were considered the most promising; and having been informed, as well by Mr. Clarke as by others, that his (Mr. Clarke's) support could not be transferred to Mr. Crawford, (the only other formidable candidate,) I was satisfied, independent of any influence of Mr. Clarke's, that a large majority of his friends would come to my support on the following day. Not only was it understood that the bitter hostility existing between Mr. Crawford and Mr. Clarke would prevent any concert of action between their respective friends, but I had extended to the friends of Mr. Clarke the assurance that they should be considered as my friends to the same extent and in the same degree as though they had originally favored my election. These were the only considerations known to me which induced Mr. Clarke to advise his friends, as he did advise them, to vote for me. The result of the ballot in joint convention on the following day realized my anticipations, as I received the support of all the friends of Mr. Clarke, with a single exception, my total vote aggregating eighty-seven, or twenty-five more than was necessary to a choice.

"After the election, and while I was on my way home on the cars, Mr. Clarke approached me in an appealing manner, and stated, substantially, that as I was rich and he poor; that as I was successful and he defeated; that as I had received the benefit of his votes and of all the expenditure which he had made in the preliminary canvass, he thought it only just and proper that I should re-imburse him for his actual outlay. I told him frankly that I sympathized with his embarrassment, and terminated the interview with the assurance that I would consider the subject.

"After coming to Washington, and just before I had taken a seat in the Senate, Mr. Clarke called upon me to enlist my influence in behalf of a friend of his to whom, he stated, he was under obligations, and whom he desired to have appointed postmaster at Lawrence. In the course of the conversation he again adverted to the subject of his expenses, and again importuned me substantially as above set forth. During the first session of the Forty-second Congress we had repeated interviews, both upon the subject of the post-office and of the proceedings against Ex-Collector John Speer, and at all these interviews he renewed his importunities for re-imbursement. There was no breach of our personal relations until December, 1871, when Mr. Clarke called upon me and peremptorily demanded \$15,000; and when I declined to gratify him he remarked, angrily, that I could not afford to refuse him, and that he would make such refusal an expensive job for me. He immediately returned to Kansas and instigated this proceeding against me, as appears in the evidence taken both at Topeka and here. I have since had no association whatever with Mr. Clarke.

"In further answering the testimony of Mr. Clarke and Mr. Carney, I say emphatically and unreservedly that I never admitted to them, or either of them, or to any other person or persons whomsoever, that the Kansas Pacific Railway Company had agreed to share with me the expenses of my election, and had afterward refused so to do, or that they had in any manner contributed to such expenses, or that I intended or threatened to prevent any congressional legislation in their behalf or for their benefit until they should so contribute; but, on the contrary,

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I always have been, and now am, on friendly terms with the officers and managers of said corporation, and among my first official acts as Senator I did, at their request, introduce a bill prepared by them of the following title: 'An act to authorize and aid the Kansas Pacific Railway Company to extend and construct its railroad and telegraph line to the northern boundary of Mexico.' (See Congressional Globe, part 1, first session Forty-second Congress.)

"I never told Mr. Clarke, or any other person, that I had an arrangement with Thomas J. Anderson to pay him \$5,000 for his services in aid of my election, nor did I ever make or authorize the making of any such arrangement.

"I never had any agreement, arrangement, or understanding with Dr. McCartney in relation to the payment of a debt he owed in Leavenworth, and I never told Mr. Clarke, or any other person, that I had made such agreement, arrangement, or understanding, and I never did pay such debt.

"I never told Mr. Clarke, or any other person or persons, that Mr. L. T. Smith or any other person was authorized by me to pay, or offer or promise to pay, any consideration whatever for the votes of members of the legislature.

"I never knew of the existence, or sanctioned the appointment, of any committee to be charged with the management of the canvass which resulted in my election, as stated by Mr. Spriggs and Mr. Carney, nor did either of them ever mention the subject of such committee to me in my room at Topeka or elsewhere, nor did I have any conversation with Mr. Spriggs at Topeka or elsewhere in regard to the purchase of votes, nor was I at Topeka upon the day he states that such conversation occurred. That I had warm and earnest friends, and many of them, during that canvass, and that they had frequent conferences during the progress of the canvass, I freely admit.

"I never authorized Mr. Hammond or any other person to offer Mr. Snead two thousand dollars, or any other sum for his vote.

"I never authorized Joel Thomas, or any other person, to offer G. W. Wood any sum of money or other consideration for his vote.

"I never had any arrangement or understanding, nor did I authorize any one to have any arrangement or understanding, with Mr. Peckham in regard to his vote, and he never made any demand upon me, at Leavenworth or elsewhere, for payment for his vote; nor did I ever pay him, or authorize any one to pay him, any sum of money or any other valuable consideration for his vote for me for Senator.

"I never authorized Mr. Gage or any other person to negotiate with Mr. Clapp for his vote, and never had any conversation with Mr. Gage or Mr. Clapp, or with any other person, on that subject; nor did I ever pay Mr. Clapp, or any person for him, any sum of money to influence his vote.

"I never authorized any person to offer Mr. T. L. Bond any consideration, pecuniary or otherwise, for his vote, nor did I make any such offer myself; nor did I have any conversation with him in regard to an appointment until several weeks after my election.

"I never had any conversation with D. R. Anthony concerning my election subsequent to that event, nor did I ever exchange a word with him, or with Thomas Carney, about the vote of A. W. Bayer, and I never paid, or offered to pay, or authorized any one else to pay or offer to pay, twenty-five hundred dollars, or any other sum, to influence the vote of said Bayer; nor did I ever state to D. R. Anthony or Thomas Carney that I had ever paid or offered to pay, or that I had authorized

any one to pay or offer to pay, any sum of money whatever in consideration of the vote of said Bayer.

"I never promised Mr. Snead any appointment to office in consideration of his vote, but I may have said to him, as I have no doubt I did to others, that applications for office made through me by my friends would be attentively considered, and their claims preferred to those of others.

"I never offered, nor did I ever authorize Thomas Carney or any other person to offer, any inducement to Mr. E. C. Manning for his vote, nor did I ever authorize Mr. Carney to say to Mr. Manning, or to give him to understand, that I would loan him (Manning) \$2,000 or any other sum for any consideration whatever, nor was any application made to me subsequent to the election by Mr. Manning, or by Mr. Carney in his behalf, for a loan of \$2,000 or any other sum.

"In any conversation I may have had with Thomas Carney subsequent to my election, I did not produce any memorandum or any memorandum-book, upon or in which were written the names of any members of the legislature who had voted for me for Senator, nor did I ever make or have in my possession such memorandum or book.

"I never told Thomas Carney, or any other person, that I had paid J. F. Legate \$1,000, nor did I ever pay said J. F. Legate any sum of money or other consideration, for his vote.

"I never agreed to pay a note of Mr. Butler's for \$850, or any other sum, and never knew that any such note was in existence.

"I never had any conversation with Mr. L. T. Smith and Thomas Carney, or either of them, in which Mr. Smith stated that he had involved me to the amount of \$40,000, or any other sum, or that I must expect to expend money in the beginning of the contest to get a status before the legislature, or that if I would let him (Mr. Smith) go on and have his own way, and if he did not succeed he would pay half the expenses himself, nor any other conversation of similar import, at Topeka or elsewhere.

"During the progress of the canvass at Topeka, D. R. Anthony approached me and offered to exert his influence in aid of my election if I would pay him five thousand dollars, which proposition I declined. Our relations prior to that time had not been of a very friendly character, and since then he has pursued me with unrelenting hostility.

"Prior to the time that I became a candidate for the Senate I had loaned to W. S. Burke two thousand dollars, and taken as security a mortgage on one-half of his printing-establishment. After the money became due I discovered that Mr. Burke was endeavoring to dispose of portions of the establishment for the purpose of depriving me of the benefits of my security; whereupon I commenced a suit upon the note, which provoked the hostility of Mr. Burke, and he began vilifying me through the paper with which he was then connected, viz: the Leavenworth Times, owned by D. R. Anthony, and has ever since until now denounced me, both personally and officially, in unmeasured terms.

"In regard to the statement of D. A. Comstock, formerly book-keeper for the banking-house of Messrs. Scott & Co., that during the senatorial canvass at Topeka currency was obtained from Scott & Co. on my check on Jay Cooke & Co. for \$10,000, I say that neither during that time, nor for six months prior and subsequent thereto, did I draw my check for that or any other amount on Jay Cooke & Co. for which currency was obtained from Scott & Co. But I will add that in 1862, and during the whole time since, I have kept with the said firm of Jay Cooke & Co. an account, and have been in the habit of depositing with them and

checking against the same in the conduct of my ordinary business, and an inspection of the accounts with said firm, and with Scott & Co., will show that no unusual amounts were either deposited or drawn during said canvass.

"In conclusion, I will say that I have endeavored to answer every accusation in the evidence offered tending in any way to connect me with any improper practices, or the use of corrupt means to secure my election; and I now say, generally, upon my honor, that I never expended one dollar for the purpose of corrupting any member of the legislature which elected me to the United States Senate; that I never promised or paid, or authorized any one to promise or pay, money or other reward for the purpose, or with the design of corruptly influencing any vote in my favor.

"I do not hesitate to admit that I paid the usual and legitimate expenses ordinarily incurred by candidates on such occasions, and in the payment of such bills I certainly did not deem that I was guilty of corrupt or immoral acts. What indiscreet friends may have done or said during the canvass I know not, and surely should not be held responsible therefor."

WASHINGTON, D. C., *February 5, 1873.*

DAVID A. COMSTOCK recalled.

By the CHAIRMAN:

Question. The books of Scott & Co., of Leavenworth, Kansas, arrived this morning, and have been submitted to you. Have you examined these books?

Answer. I have.

Q. State whether you find credits to Mr. Caldwell by drafts on Jay Cooke & Co.

A. Yes, sir; I do; several of them.

Q. Have you a memorandum of them?

A. Yes, sir.

[The witness hands a memorandum to the chairman.]

Q. A. Caldwell on Jay Cooke & Co., Philadelphia. January 9, \$5,000; 17, \$5,000; February 1, \$5,000; March 23, \$10,000?

A. Yes, sir.

Q. Do you find upon the transfer-book an item of \$10,000, drawn by Mr. Caldwell on Scott & Co.?

A. Yes, sir.

Q. Can you refer to it here, sir?

A. Yes, sir. January 20, is a check of Mr. Caldwell, paid by Scott & Co., drawn for \$10,000.

Q. Is that about the time spoken of in your evidence the other day?

A. Yes, sir; about that time.

Q. On what day did the senatorial election take place?

Mr. CLARKE. The first vote was on the 24th.

Mr. LOGAN. The joint ballot was on the 25th of January.

By the CHAIRMAN:

Q. Do you wish to make any statement in correction of your evidence in regard to this matter?

A. On examination of the books, I find that I was evidently mistaken in my testimony the other day in regard to a check drawn on Jay Cooke

& Co. for \$10,000, because I cannot find any such item. It may be that the check of Scott & Co. for \$10,000 is the one I referred to.

Q. You may be mistaken in regard to its having been a check on Jay Cooke & Co.?

A. Yes, sir.

Q. But you find an item of \$10,000, drawn on Scott & Co., for that day?

A. Yes, sir.

Q. Is there anything else that you wish to state?

A. I would like to make a personal statement in regard to a conversation alleged to have taken place between Mr. Hopkins and myself.

Q. Go on and make it.

A. I had a gentleman, a friend, with me in the National Hotel that evening, and we were together the entire time, and both my recollection and his recollection is that no such conversation took place at all as stated by Mr. Hopkins. My friend says that, after leaving——

Q. You need not state what your friend says; you can give your own statement about it.

A. This would probably explain Mr. Hopkins's statement. He says that Mr. Hopkins asked him what I could testify to, and he said to Mr. Hopkins that he presumed I was here to testify about the books, and probably my evidence would be all found in the books; and he says that probably gave rise to Mr. Hopkins's remark.

Q. That was his statement to Hopkins rather than yours?

A. Yes, sir; but we are both positive that no such conversation took place between Mr. Hopkins and myself.

By Mr. CROZIER:

Q. Who is the gentleman you refer to?

A. A. W. Robb.

Q. A Kansas man?

A. No, sir; he is living in the Indian country, at Muscogee, near Fort Smith.

Q. Was it an unusual thing for Scott & Co. to pay Mr. Caldwell \$10,000?

A. I have looked through the books, and I do not find any other check drawn for that amount.

Q. Do you find another check for any large amount?

A. Yes, sir; I found checks, but not about that time.

Q. Along before or after that? Keep on two or six months.

A. I can't say about that; I did not look.

Q. Will you look at the ledger? You have it there.

A. The ledger is not here; the journal is here.

Q. Do you not know that Mr. Caldwell has kept a pretty large account with Scott & Co.?

A. Yes, sir; as a general thing.

Q. Do you know that he has drawn largely against that account in checks?

A. Yes, sir.

Mr. TRUMBULL. Is Mr. Adams here?

Mr. CLARKE. No, sir; I have a dispatch that he is at home, sick.

The CHAIRMAN. Mr. Caldwell, who at this moment is not present in the room, said to me, yesterday, that he would just as soon make his answer under oath. He did not say whether he wanted to come before the committee for that purpose or not. I did not exactly understand it. What is the purpose?

Mr. CROZIER. I do not know.

The CHAIRMAN. Has he communicated with you?

Mr. CROZIER. Not on that subject.

The CHAIRMAN. If he wants to make his answer under oath, the committee, I suppose, would still allow him to do it.

(Mr. Caldwell here entered the committee-room.)

Mr. CROZIER. Mr. Caldwell can say what he has to say to the committee in answer to that question.

The CHAIRMAN. Mr. Caldwell, I was just stating to the committee what you had told me yesterday about swearing to your statement. I do not know whether you desire to do it, or what your purpose is, and I have just mentioned the matter to Judge Crozier.

Mr. CALDWELL. I have had some conversation with the judge this morning, and I am advised to submit my statement on my honor as a Senator.

The CHAIRMAN. As you had spoken to me on the subject, I thought I ought to give you the opportunity.

Mr. CALDWELL. Yes, sir; and that was my first impulse; but that is what my counsel advise.

The CHAIRMAN. The examination may be considered as closed.

Mr. CROZIER. I desire to have the privilege of submitting a printed argument.

The CHAIRMAN. Is it ready?

Mr. CROZIER. No, sir; I would like as long a time as the committee can give me for its preparation. I will be glad to have a week.

Mr. CLARKE. If time is given to the other side, I would like to have the same privilege.

Mr. CROZIER. I suppose the committee know the law, but I would be glad to call their attention to some points in argument.

Mr. HILL. Do you propose to extend the argument to anything beyond legal points?

Mr. CROZIER. I had thought I would.

Mr. HILL. A comparison of testimony, &c.?

Mr. CROZIER. Yes, sir. It will not be very lengthy. I do not ask to read it or make an oral argument, but to submit a printed argument. Could the committee give me until Monday?

The CHAIRMAN. There seems to be no objection in the committee to allowing you until Monday morning for that purpose.

Mr. CLARKE. I suppose, standing in the relation that I do to this case, I have no technical right to ask the committee to be allowed to submit a printed or written argument. But my name has been mentioned quite prominently in connection with this investigation, and is in the record in connection with the testimony, and if this opportunity is given to the other side, I would like the same privilege.

Mr. LOGAN. I object to that, Mr. Chairman.

Mr. CLARKE. It appears in the record——

Mr. LOGAN. I do not think that makes any difference. You are a mere witness here, and I do not think you have any right to put yourself in the attitude of prosecutor. I object to an argument being made by any person outside.

The CHAIRMAN. I think, Mr. Clarke, that if the right was accorded to you it might be claimed by every witness in this case. We will adjourn this case until Monday morning.

WASHINGTON, D. C., *Monday, February 10, 1873.*

Mr. CALDWELL submitted the following :

Considerations of law submitted to the Committee on Privileges and Elections of the Senate of the United States.

The committee having accorded to me permission to submit such legal considerations as may be pertinent to the pending inquiry on the subject of my election as Senator of the State of Kansas, I now proceed to avail myself of this privilege, with only such brief preliminary statement of facts as may be necessary to the understanding of the points of law.

I am charged with having procured an election to the Senate by the use of money to induce opposing candidates to retire, and by the use of money and other improper means to induce members of the legislature to vote for me. The first of these charges, so far as it relates to the retirement of Thomas Carney, stands admitted upon the record ; but I insist that that was a private transaction between citizens, neither of whom occupied any official position, and was not denounced as an illegal act by any statute, State or Federal, and was one concerning which the Senate has no legal right or power to inquire, as I shall subsequently endeavor to show.

The proofs on all sides concur in establishing the fact that no such or similar arrangement was made with any other candidate.

The second charge is a very grave one, and most of the testimony relates to it. To sustain it, an attempt was made to show that I had admitted to Sidney Clarke, Thomas Carney, D. R. Anthony, and W. S. Burke, that my election had cost me a large sum of money. Two of these persons, Clarke and Carney, say that their sole motives in instituting and pushing this investigation were for the purpose of purifying the Senate of the United States, and *to have revenge*; but their own testimony, and that of persons brought here at their instance, show conclusively not only that they are not proper guardians of the honor of the Senate, but that they themselves are corrupters of public morals and dishonorable men. In considering their testimony, the fact that both these men were disappointed candidates for the position I occupy should not be overlooked. It is also clearly in proof that Anthony and Burke were extremely hostile to me, and that for a long time past they have constantly employed the press which they control in traducing me and my friends. In addition to these considerations, every material statement made by them, or either of them, stands contradicted on the record.

Testimony of the admissions of members of the legislature to third persons, that they had received or were promised money for their votes, is also brought before the committee. But all such testimony is conclusively disproved, not only by the persons who are alleged to have paid or promised the money for votes, but by the members themselves in every instance but two, and the record shows that the present whereabouts of these two cannot be ascertained. And I deny the legality or propriety of receiving in evidence such admissions, except upon the trial of the member himself for bribery. No enlightened court would permit them in a prosecution against me, nor should this committee consider them in this investigation. Establish such a precedent, and the right of any Senator to a seat might be admitted away any day by any unscrupulous person who may have voted for him.

The testimony does not show that one dollar was traced from me, or

from any other person by my authority, to any member of the legislature which elected me; but it is clear that disappointed ambition, personal malice, and a mean spirit of revenge have conspired to compass my injury at the expense of truth and of honor.

I assume, therefore, as the result of the inquiry before the committee, that no fact is proved against me on which to found the charge of any act of bribery or violation of law whatsoever, or the performance of any act unworthy of a Senator of the United States.

Personal enemies, men resentful, because the people of Kansas have preferred me to them—men seeking to extort money from me without cause or just claim—may have succeeded in creating suspicion against me by misrepresentation of the most innocent acts, and chiefly by false representation of private conversations, contradicted by myself, unsupported by any third person, and contrary to the facts otherwise proved. But is there any member of this committee, is there any gentleman having attained to the elevated post of an American Senator, who does not leave envies and resentments behind him, and who is not subject to similar machinations? Of course; and it is the common interest and honor of my fellow-Senators, as well as of myself, which I seek to protect and guard in the remaining considerations which I desire to submit to the committee.

In the first place, I respectfully demand, under what authority is this proceeding? What provision of the Constitution of the United States, or of any act of Congress, has been violated? On what letter of law am I arraigned here to answer to the malicious charges of disappointed men, who, in calumniating me, calumniate still more their own State?

I come here, a Senator of the United States, duly certified as such by the competent authorities, and elected in all the forms of the Constitution and of the statute laws, whether of the United States or of my State. What right have my fellow-Senators to go behind my commission, to inquire into the *motives* of the members of the legislature in electing me to the Senate of the United States? On what text or pretext of law will the committee justify any action against me on the part of the Senate?

On any provision of the constitution or statutes of Kansas? No; there is no provision there which vacates the election of a Senator for any such reasons as are here before the committee.

On the provision of any act of Congress? No; it is not pretended that in my election there was any departure from the commands of the only existing act of Congress which touches the election of Senators.

On the provision of any article of the Constitution of the United States? No. It is true, the Constitution empowers each House to be "the judge of the elections, returns, and qualifications of its own members." Nobody calls in question my legal qualifications; nobody impeaches my returns; and if the injury have any basis whatever in the Constitution of the United States, it is in the word "elections," in the cited clause of the Constitution.

But the question recurs, and I again demand, On what law do you proceed? You may inquire, in virtue of the Constitution, into the fact of my election; but the Constitution does not say you may inquire into the *motives* of the members of the legislature; and it does not say that, by virtue of inquiry into such motives, you may unseat a Senator. And that is the true question; for, if you have no lawful authority to unseat, as the result of inquiry into the motives of members of the legislature, then the inquiry is not pertinent to this clause of the Constitution.

I shall discuss hereafter the question of *expulsion*: that is under another clause of the Constitution. I am dealing now with the question of your power to unseat, if any, in virtue of your power to judge of the election of Senator.

For this, I repeat, there is no provision of Constitution or of statute, either of the United States or of Kansas.

Where then is the law, I repeat? I know of none; I inquire of my learned counsel, and they know none; and I affirm that there is none, unless it be some act of the English Parliament, applicable in terms and in fact only to the English House of Commons, or that vaguest of all possible jurisprudence, the so-called English custom of Parliament.

Now, what is the law of Parliament—that is, of the English House of Commons? It may be briefly stated as follows:

“Bribery by a candidate, though in one instance only, and though a majority of unbribed votes remain in his favor, will avoid the particular action, and disqualify him for being re-elected to fill such vacancy.” (Shepherd's Law of Elections, p. 102.)

Remember, that is *statute*, not common law; for, although two old cases are referred to as anterior to any statute, those of Longe and Halle, yet their existence has been questioned; and the legality of the proceeding, if it ever occurred, has also been questioned, for which reason competent acts of Parliament were enacted. (Male on Elections, p. 339 *et seq.*) There is no well-authenticated case in which a member of Parliament has been indicted for bribery at common law, nor is there any similar case in the United States. (Wharton's Precedents, p. 589.)

But such is undoubtedly now the statute law of England.

Is the committee prepared to say that such is the law of the United States? If so, how did it become such? I do not see how. Nothing is better settled, as Federal law; than that a criminal proceeding cannot stand on the common law; there must be an act of Congress for it. And if we examine the question carefully, we shall find that in England the provision of law which supports the unseating of a member for bribery also supports an indictment; the two things go hand in hand. If you cannot indict, you cannot unseat; and the connection between the two facts, recognized as just in England, is necessary in the United States. It is clear, therefore, that the English statutes of bribery cannot be the rule of action in the United States.

I pray Senators to look for a moment at the consequence of the contrary supposition. Is there any Senator whose life in his own State has been so negatively obscure that he has no political enemy? Certainly, if a Senator possess any of those higher qualities of courage, eloquence, and statesmanship, which shine in so many great Senators who have honored this body, he will have enemies of envy and jealousy, however blameless and pure be his life. Now, is it to be admitted that every Senator holds his high place at the mercy of any one hater or envier at home, who may be bold enough to assert on hearsay, (as the evidence is here,) confession by a member of a single case of bribery? Surely not; and yet that is the tenor of acts of Parliament which the hypothesis of the present proceeding imports into the Senate of the United States.

No: I utterly refuse to accept an act of Parliament as the source of jurisdiction here. The supposition violates every maxim of justice, every instinct of law, every principle of the Constitution.

What, then, it may be asked, shall not bribery be punished? Yes, if there be law for it; no, if there be no law.

But shall a flood of corruption be suffered to flow over the land, destroying public virtue, and sapping the foundations of the Government? No; pass an act of Congress to meet the evil, as you do to meet any other evil; provide, as you do in case of other crimes, to punish the offender, while defining the offense, and surrounding the prosecution with proper limitations and safeguards. You have already provided an act of Congress for the regulation of the *manner* of electing Senators, as you had full power to do; go one step further, and provide an act of Congress to regulate the *substance* of the election of Senators, instead of proceeding, without such an act of Congress, to practice the worst tyranny under the pretense of law, that is, undertaking here to make use of a mere detached clause of an act of Parliament for the punishment of members of the House of Commons, dropping all the provisions of personal security which the act carries with it when administered in Great Britain.

But I discern still more serious objections to the arbitrary exercise of power which this proceeding supposes. It is, I respectfully submit, revolutionary in its character, and utterly subversive of the institutions of the United States.

Our forefathers established for us a system of government of immense force, but with checks and balances to prevent usurpation. They conceived a government which should combine the largest possible federal power with the largest possible individual liberty. In order to effect this combination they preserved the organization of the States. Nay, they went one step further. They gave to the States a special representation as such in the Senate, imparting to Rhode Island, Delaware, Connecticut the same power in this body as they gave to Virginia, to New York, to Massachusetts. And how grand has been the effect! A national growth which astonishes the world; a political force, either for peace or war, which fears nothing, at home or abroad; a republic, the admired model of Europe and America, and the soul of that mighty political body here in the Senate of the United States.

Ay, here alone it is that political power never dies, for the Senate is renewed by periodical classes. Here it is that all the traditions of the Government are preserved unimpaired in the successive classes of the renewed Senate. Here it is that legislation and administration come in contact. Here is the treasure-house of our foreign relations in the matter of treaties, and of our domestic relations in the matter of the appointment of all the principal functionaries of the Government, judicial, military, civil, diplomatic, by means of which alone it is that the blood of political life circulates through all the veins of the Union.

Now, I admit that a member of the House of Representatives may talk lightly or loudly of popular action or influences, for he directly represents a definite collection of mere persons, which collection, in a State like New York, Pennsylvania, Ohio, Illinois, is but an elementary atom of that constituency which you, the Senators of those States, represent, for you represent the State itself; that State which, only a portion, relatively small, of this Union, is itself a political society, more populous, richer, more powerful, even in its diminished independence as a mere State of the Union, than most of the independent governments of America and many of those of Europe.

Senators of the United States, are you prepared to step down from this great pedestal of honor, of usefulness, and of fame? Are you prepared to bring on the eclipse of that great luminary of our political system, the Senate of the United States? You will do so, if you apply to the election of a Senator of the United States the rule of procedure which

England applies to the representatives of her petty constituencies in the House of Commons—a rule which may be applicable to electoral districts of our House of Representatives, but not to the States. I entreat you to pause before you take that fatal step in the path of the degradation of the Senate, by disregarding the mission of Senators as the representatives of the semi-sovereign States of the Union.

Whence comes the title of Congress? Because the political assembly which conducted the war of independence was not a *legislature*, representing persons; but a diplomatic congress, representing States. When the States consented to form a more intimate Union, to have an assembly which should be legislative and not merely diplomatic, they clung to the name of Congress, inapt as it had now partly become, or only apt, because in the Senate they still continued to see their own State representatives invested with administrative functions, and continued by class renewals, so as to stand here the perpetual agents of the States as such, a real Congress, but eternal in their functions and their power as the Union itself.

Once more, then, I implore you to pause before you abdicate these high functions, this glorious mission, to descend to the level of the representatives of persons, instead of the States.

For that, I insist, is the true question here, of looking behind my authentic commission as a Senator of the State of Kansas. I may be struck down by you; that will be my misfortune; but you cannot reach me to strike the blow without striking it through the shield of the imprescriptible rights of the States of the Union. It will be an act of profanation; it will be an act of suicide; it will be an act of matricide; let him who will strike this blow at the Constitution in my person. I shall perish, but my own political death will be but an unconsidered trifle in the great calamity of the Union.

Let me present the question in the light of other supposable facts:

A Senator appears here duly qualified, and duly returned, and duly elected by the legitimate legislature, proceeding in the forms of the proper act of Congress. Will the Senate go behind the returns, to inquire whether any of the members of the legislature were or not duly elected? It may do this if it can examine the motives or inducements of members. To do any of these things would be to devolve on the Senate a task intolerable, and quite beyond what election questions, troublesome as they are now devolve on the House of Representatives; for it would require examination into the popular elections behind the members of the legislature.

In fine, I stand on the right of the State of Kansas, that her Senator, duly elected in the forms of the act of Congress, duly returned by the authorities of the State, duly qualified according to the Constitution, shall not be attacked in his seat by suggestions in regard to the motives of the members of the State legislature, to inquire into which there is no authority of law, either in the text of the Constitution or of any act of Congress.

I concede, nay, I affirm, that if any gentleman come here purporting to be Senator-elect from any State, it is competent for the Senate not only to inspect the professed return of such Senator, but also to inquire whether there be any such State; or, if the existence of the State be recognized, whether it have any recognized government, and especially any constitutional legislature; or, if there be two sets of persons, each pretending to represent the State, or each pretending to represent one of two conflicting legislatures, then to inquire and determine which, if either, is the legitimate legislature or State.

But in the case of a recognized State, and of an incontrovertibly legitimate legislature, I solemnly but respectfully deny the right of the Senate, in the absence of any act of Congress to that effect, to inquire into the motives of any member of such legislature to the end of unseating a Senator.

Addressing Senators of the United States alone, it might suffice to present the constitutional question to their minds; but, in a matter of so much public moment, I shall be pardoned if I cite in addition some pertinent precedents or technical legal authorities.

The fundamental propositions are two: First, that Senators are elected by States in their character of political sovereignties; and, secondly, that the Senate cannot go behind the *quasi*-legislative act of one of the States.

The case of Elisha R. Potter against Asher Robbins was considered and decided in the Senate of the United States, at a time when there were giants in the land, and the report of the committee was supported by the concurrence of such men as Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Leigh, Mangum, Poindexter, Preston, Southard, Sprague, and Webster.

The case was this: On the 19th of January, 1833, Mr. Robbins was elected a Senator for the State of Rhode Island, for the term of six years, in due form by the general assembly of the State. In October, 1833, the general assembly undertook to declare the election of Mr. Robbins void, and elected in his place Mr. Potter.

The debates and documents in the case occupy more than a hundred pages of Clark's Contested-Election Cases, (p. 877-1009,) from which it will suffice to cite pertinent passages covering the precise question before this committee.

The majority of the committee in that case (Messrs. Poindexter, Frelinghuysen, and Sprague) say:

"They (the Senators) are chosen by the States as political sovereignties. * * * In the performance of this duty the State acts in its highest sovereign capacity, and the causes which would render the election of a Senator void must be such as would destroy the validity of all laws enacted by the body by which the Senator was chosen. Other causes might exist to render the election voidable, and these are enumerated in the Constitution, beyond which the Senate cannot interpose its authority to disturb or control the sovereign powers of the States, vested in their legislatures by the Constitution of the United States. We might inquire, was the person thirty years of age at the time of election? Had he been nine years a citizen of the United States? Was he, at the time of his election, a citizen of the State for which he shall have been elected? Was the election held at the time and place directed by the laws of the States? These are facts capable of clear demonstration by proofs; and, in the absence of the requisite qualifications in either of the specified cases, or if the existing laws of the State regulating the time and place for holding the election were violated, the Senate, acting under the power to judge of 'the elections, returns, and qualifications of its own members,' might adjudge the commission of the person elected void, although in all other respects it was legal and constitutional. But where the sovereign will of the State is made known through its legislature, and consummated by its proper official functionaries in due form, it would be a dangerous exertion of power to look behind the commission for defects in the component parts of the legislature, or into the peculiar organization of the body for reasons to justify the State in declaring its acts void. Such a power would subject

the entire scope of State legislation to be overruled by our decision, and even the right of suffrage of individual members of the legislature, whose elections were contested, might be set aside. *It would also lead to investigations into the motives of members in casting their votes, for the purpose of establishing a charge of bribery or corruption in particular cases. These matters, your committee think, properly belong to the tribunals of the State, and cannot constitute the basis on which the Senate could, without an infringement of State sovereignty, claim the right to declare the election of a Senator void who possessed the requisite qualifications, and was chosen according to the forms of law and the Constitution.*" (P. 900.)

The committee further say :

"Contested elections in the popular branch of Congress open a much wider field of inquiry than a like contest for a seat in the Senate, which is a body wholly Federal in its character and organization, and whose members hold their appointments from and represent the States as political sovereignties." (P. 901.)

The committee further say :

"It is admitted that the sitting member, Asher Robbins, possesses all the qualifications required by the Constitution of the United States to be a Senator in Congress, and that his commission as such is in due form, according to the laws and usages of Rhode Island. These points being conceded, the remaining *and the only question* to be decided is, was the body by which he was chosen a Senator the legislature of Rhode Island?"

Now, in this case the minority of the committee, Messrs. William C. Rives and Silas Wright, joining issue with the majority on the true question, namely, whether the assembly of persons which elected Mr. Robbins was the legislature of the State, affirmed that it was not, and so concluded in favor of Mr. Potter. But the minority of the committee were also of opinion that bribery did not affect the validity of the election made by the legislature. (P. 962.)

I respectfully submit that the decision in the case of Potter against Robbins covers the present case in so far as regards the question of unseating me on account of the (falsely) imputed act of bribing members of the legislature.

In conclusion of this part of the subject, I respectfully suggest the pertinency to the present question of the well-known case of *Fletcher v. Peck*, (6 Cranch, 87,) which decides that not even the courts of justice can go behind an act of the legislature to inquire into the motives of the members, even in a case of bribery and fraud.

You may look into the record of an alleged law, you may compare the journal with the roll, to see whether what pretends to have been enacted was, in fact, enacted; but you cannot inquire into the honesty of the vote of a member; and, if you could, his vote is not annulled by reason of his corrupt act, but still remains a unit in the sum of the votes which constitute the act of the legislature.

What then remains of the inquiry before this committee?

Nothing, I submit, save the question, whether I should be expelled by vote of the Senate?

For what cause? Not for any fact of bribery. No such fact has been proved; and, if it had been, it would not be competent in law for the Senate to proceed, for any such cause, to nullify the act of the State of Kansas which placed me in the Senate.

Shall a vote of expulsion be founded on the payment by me of a sum of money to Mr. Carney to defray his expenses of candidature? The payment did not constitute an act of bribery or any violation of law.

Of course, it cannot affect the question of the validity of the election; and if it receives the consideration of the Senate at all, it can present but a single question: Whether that transaction constitutes good cause for the expulsion of a Senator?

Now, affirm, if you will, that it is indelicate on the part of a candidate to pay money to a rival candidate to induce him to get out of one's way. Does a payment of money differ in the forum of conscience from political favors which are bestowed in the same way and for the same object? Is it dishonorable to satisfy a needy rival by relieving his debts? Then, is it not equally dishonorable to dispose of an ambitious rival by promoting his objects of ambition? If we probe too deeply the payment of money or the procurement of political favor for the sake of being rid of enemies or of securing or rewarding friends, (and if the former be wrong, then, why not the latter?) are we not in danger of setting up a standard of impracticable and unattainable incorruption, such a rule of absolute disinterestedness, as to defeat all possible efforts for the purity of political life, and throw us back into a state of deplorable indifference to all such considerations?

However that may be, I repeat that, in this transaction, there was no violation of law; it did not injure any person; and, if it contributed to prevent Mr. Carney from becoming a member of this body, I think it was an act eminently to the advantage of the State of Kansas and of the United States.

But is it in any possible sense a good cause of expulsion from the Senate?

The power to expel, with the concurrence of two-thirds, is conferred on the Senate for a defined object, namely, "to punish its members for disorderly conduct."

This power has been exercised in several cases, with such discussion as the circumstances required; and in every case the expulsion was for some act performed by the Senator during membership. Such are the cases of Blount, of Smith, and of Bright.

A statesman and jurist of the highest authority, Mr. Goodloe Harper, has said that, if the question were *res integra*, he would contend that the power of expulsion is confined to acts done in the presence of the Senate. (Hall's American Law Journal, vol. 1, page 471.)

The Senate, however, have passed that point; but they have decided not to go any further. In the case of Humphrey Marshall, a Senator from the State of Kentucky, charged with the commission of fraud and perjury, the Senate refused to take jurisdiction, partly because the acts charged were committed before he became a Senator, and partly because, occurring at that time, the parties petitioning ought to have complained to the grand jury, and to have afforded to the accused the opportunity of trial by jury; and, in case of conviction, then bringing the case before the Senate. (See Senate Journal, 1793-1799, vol. 2, p. 227.)

The committee will perceive that this case of Humphrey Marshall is pertinent to the present case on both points.

For the same reason, it would be incompetent for the Senate, even if (which I solemnly deny) any act of bribery had been committed by me, to change such act from a cause of avoiding the election to a cause of expulsion; for it happened before I became a Senator.

In conclusion, permit me to say to the committee, that I would gladly have reviewed at length the evidence taken in this case; but I have deferred to the expressed desire of the committee, in referring to the

facts only so far as appeared necessary to the distinct presentation of the interesting and important questions of law which the inquiry raises.

I do most earnestly adjure the committee, in conclusion, that you do not suffer the handful of unworthy sons of Kansas, who come here to malign and to dishonor their State in the hope of injuring me, to induce you to entertain complaints against the legislature of the State of Kansas, which cannot, in my opinion, be pursued by the Senate without the sacrifice of its own dignity, nor without fatal prejudice to the dearest rights of all the States of the Union.

I know that I have done no act to dishonor my name, either as a gentleman or as a Senator. I solemnly declare that the imputations of my accusers are false and malicious. If I had done the acts charged, it was their duty to proceed against me in the courts of the State of Kansas, with a jury of the vicinage to try the issue between us. This, with ample time for the purpose, they had not dared to do. I trust in the justice of my cause, and in the impartiality and integrity of my fellow-senators, to frown on this persecution of political animosity, for their own sakes as well as mine, and, above all, for the honor of the august Senate of the United States.

Permit me, in conclusion, to add, that the State of Kansas takes no part in this unjust attempt to unseat her Senator. On the contrary, resolutions offered at the present session of the Legislature of Kansas, intended to prejudice me in this inquiry, have been rejected by the almost unanimous vote of the senate, and by the vote of an overwhelming majority of the house of representatives.

ALEXANDER CALDWELL.

CALEB CUSHING,
ROBERT CROZIER,
Of Counsel.

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 17, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

REPORT:

[To accompany bill H. R. 2899.]

The Committee on Claims, to whom was referred the bill (H. R. 2899) for the relief of Charles F. Carr, submit the following report:

The evidence shows that one Edward A. Long was a clerk in the light-house department at Boston in 1864, and had committed a fraud upon the United States by means of false vouchers of the light-house disbursements. Charles F. Carr, in the month of September, in that year, went to the auditor's office, in the custom-house, and gave information of the fraud. Upon this information Long was immediately arrested and held to bail. Five indictments were found against him under the fraud act of March 3, 1863. He made his escape, and suits were instituted in January, 1865, upon his two bail-bonds in the United States district court at Boston to recover \$15,000. Separate suits were instituted against the securities, viz, against Leonard A. Brooks, to recover \$10,000; James Elliott, to recover \$5,000, and George Mudge, for the recovery of \$5,000. In the suit first named judgment was rendered against Long at the September term, 1866, for the sum of \$10,000, which was collected and paid into court. The other suits were at the same time dismissed by the district attorney. The costs of suit having been deducted, left the sum of \$9,790.43, which was covered into the Treasury.

Under the same law to which reference has been made, and under which the above-mentioned proceedings were had, it is provided that the person bringing a suit, and prosecuting it to final judgment, shall be entitled to receive one-half the amount of the forfeiture and one-half the amount of the damages he should recover and collect. The suit could be brought and carried on by any person as well for himself as the United States, but it must be brought in the name of the United States, and having been brought could not be withdrawn or discontinued without the written consent of the judge and district attorney. For frauds such as Long was charged with, the offender was liable to forfeit and pay to the United States the sum of \$2,000, and in addition double the amount of the damages they may have sustained by reason of the commission of the fraudulent acts. The forfeiture and damages might be sued for in the same action. Besides this penalty the law provided that the offender might, on conviction of the fraud in a competent court,

be punished by imprisonment not less than one nor more than five years, or by fine of not less than \$1,000 and not more than \$5,000.

It will thus be seen that Long, for the frauds charged, was liable to an indictment and to a *qui tam* action, in which the above forfeiture and damages could be recovered, one-half for the benefit of the informer.

As it was, Long was indicted as above stated, but no *qui tam* action was brought. What he paid was on the bonds he gave for his appearance to answer the criminal charges. This suit, in other words, was upon Long's recognizance, and to recover the penalty for his failure to appear in court and answer the charges of fraud, as he had stipulated to do in his recognizance. The suits against his sureties were for the same default. These suits were entirely different in character from the one contemplated by the law to be brought by the informer in the name of the United States. The latter could have been brought under the statute to recover a forfeiture of \$2,000, and double the amount of damages the United States had sustained in consequence of Long's frauds, and could have been brought at any time within six years from the commission of the fraud.

In point of fact the *qui tam* suit was never brought. Mr. Carr shows that he employed an attorney of Boston to bring the suit, but he neglected it.

From the evidence disclosed, the committee think it highly probable, had such suit been brought, it would have been sustained. But note the conditions—

1. It must be brought against Long alone.
2. Within six years.
3. At the costs and charges of the informer, for which he could have no claim against the United States.

Now, supposing that Long proved to be solvent, the informer was entitled to one-half of the judgment that should be rendered and collected, the other half going to the United States.

Why, if Long was solvent, was not this suit brought? No satisfactory answer can be given to this question. Up to 1870 the doors of the court were open. That Carr engaged an attorney to prosecute the suit, and that the attorney neglected his duty, is in proof. But why did he not employ another?

Beyond the fact that Long paid the \$10,000, there is no evidence of his ability to have paid a judgment in a *qui tam* action. Had such action been brought and sustained, the United States would have shared with Carr its benefits. Thus the Government would have had not only the \$10,000 but one-half of Carr's recovery.

What the United States have in the Treasury now is simply the penalty exacted for Long's failure to answer the criminal charges; it is the forfeiture of his bond. This was a suit which the United States district attorney was compelled to bring. An informer had nothing to do with it. All he was interested in was the civil suit to recover the \$2,000 penalty and damages from Long, and this suit was never brought. Carr's only merit was in unearthing the fraud, and bringing it to the notice of the authorities. He did this, undeniably, and probably his timely discovery saved the Government a good deal of money. His meritorious services in the matter are attested by several officers of the Government connected with the custom-house in Boston, and the Treasury Department.

The Solicitor of the Treasury says of him:

The claimant has doubtless performed meritorious services, and is entitled to the consideration of the Government; but, having neglected to present his claim and have

it recognized and ascertained at the proper time, I do not perceive that the Secretary can afford him relief.

It should have been mentioned that, after the money collected of Long had been deposited and covered into the Treasury, Mr. Carr made application to the Secretary of the Treasury for the informer's share. And it was this application which called forth the letter of Mr. Banfield, from which the above sentence is quoted.

To sum up the matter, Mr. Carr has taken but one step toward earning a right to an informer's share, viz, in giving the information which led to Long's arrest. The suits upon the bonds, which resulted in a compromise by which a recovery was had for \$10,000, were brought by the district attorney, and the only proof required was the bonds themselves and the default of Long to appear. If Carr was a witness in these suits, doubtless he was paid as a witness. A suit for his own benefit would have required an attorney and some outlay in the way of expense and a certain liability for costs. This suit was not brought. It was only by such suit that he could earn the informer's share. The court was to ascertain his right to the money, and apportion to him a share in the money recovered. The Secretary of the Treasury had nothing to do with it.

At law, therefore, Carr has no remedy, having omitted to bring his suit. Is he in equity entitled to a portion of the \$9,790.43 covered into the Treasury? The House bill provides he shall have one-fourth of that sum. On the facts above stated, the committee are of opinion that the claimant is not entitled to the relief prayed and accorded to him by the bill, and accordingly they recommend that the bill be indefinitely postponed.

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 18, 1873.—Ordered to be printed.

Mr. MORRILL, of Vermont, from the Committee on Finance, submitted the following

REPORT:

The Committee on Finance, to whom were referred the petitions of bankers and merchants for the removal of all taxes whatever on State and national banking institutions, submit the following report:

These petitions have received respectful attention, but before referring to the real merits of the questions involved, the committee cannot refrain from noting a practice of recent growth, an example of which is here presented, calculated, it is to be feared, to impair the weight and value of petitions which are, or ought to be, received as the sacred prayer and unbiased judgment of the people. Most of the petitions appear in a bulky and imposing form, printed and indorsed in the same type, having the same parentage, by whomsoever nursed, and showing that an organized method of multiplying petitions has been resorted to by first manufacturing blanks, which upon being sent out give, perhaps, the first notice of grievances to those whose signatures have been solicited and obtained. The same recital of facts is conspicuously made for all localities—the city of New York, or Galena, Illinois, Texas and Maine—however widely separated, and whether applicable or not. Connecticut appears to groan over local taxes, though the evidence only refers to such as are imposed upon a bank at Albany, New York. This bank, which is used for an example of the oppression to which all banks are subjected, is the “National Albany Exchange Bank.” It appears by the report of the Comptroller of the Currency that the bank has a capital of \$300,000, and that after paying all dividends as well as taxes, it has a surplus fund of \$100,000 and undivided profits amounting to \$45,224.76. Beyond regular semi-annual dividends, here are accumulated profits of nearly fifty per cent. on the original capital. Surely such oppression may be well borne by the stockholders with tolerable complacency. But is it not apparent that the right of petition is cheapened when, instead of being the spontaneous action of the people, it is brought into frequent service under the spur of a system of recruiting-agents engineered, if not supported, by one common head-center? Whatever our opinion may be of this mode of getting up petitions, and though it is possible that only a small part of the blanks sent out have been so far approved as to obtain signatures, yet the bankers and merchants actually represented are most respectable in numbers and reputation, whose indorsement, however obtained, makes any paper current, and, therefore, the questions involved deserve just and proper examination.

The petitioners ask, as merchants, to have all the State and national banks relieved from taxation on their capital, circulation, and deposits, and represent that this may be done "without any detriment to the necessary wants of the Government." But this representation is at once refuted by the later monthly statements of the Secretary of the Treasury, which show an increase of the national debt by reason of diminished revenue in consequence of the general reductions in taxes made by Congress in the act of 1872, and, therefore, it is not true that it can be done now without detriment to the necessary wants of the Government.

If, however, this argument were not negatived by the facts, and there were surplus revenues which might be dispensed with, the question would still remain whether the taxes on State and national banks ought to be abandoned as more onerous than all other taxes now imposed. Without reviewing the whole list of taxes which it may be supposed command the least affection of the people, let us consider whether or not a tax on national banking institutions is just and proper.

It is a tax, not on labor, but on capital realized and put in its safest and most active form. And it is a tax for exclusive privileges, granted by the nation, which are to endure for a long series of years. Capitalists with ready money—the only persons who can engage in the business of banking—as a class, are not only sagacious but prudent. They would hardly seek to hold stock in banking institutions if the business was unprofitable, and yet there is no lack of capital seeking such employment. Even the very general desire for free banking is nowhere restrained by the fear of excessive national or local taxation. Whether the latter is excessive or not—and your committee will not deny that there may be in many cities some foundation for the charge—it is enough to show that the national taxes are not excessive. It must be borne in mind that the stockholders of these institutions have been already relieved from the special or license tax, and also from the income-tax. These were war-taxes, which have been made to cease at the first moment the national exigencies permitted. What remains must be justified in times of peace and prosperity. The object, we claim, is pre-eminently a legitimate one from which to derive national revenue, and the manner of its collection has never been and could not well be complained of, since the banks themselves are the chief instrumentalities in this service.

The annual tax on capital is half of one per cent., or five mills on a dollar. This would be \$500 on a bank of \$100,000 capital, or \$5,000 on a bank of \$1,000,000 capital. Is that too much? On the contrary, it is moderate, and especially it is moderate so long as a considerable share of the bonds deposited with the Treasurer of the United States as security remain of the early class, and yield to the banks interest at the semi-annual rate of six per cent. instead of any lower rate.

Besides the tax on capital the national banks are taxed one per cent. on their circulation. Can that be considered onerous? Would they not like more circulation on the same terms? With the exception of the required reserve—amounting to twenty-five per cent. on banks in fifteen to twenty cities and fifteen per cent. elsewhere—all of their circulation may be used in the same manner and with the same profit as so much actual capital. If three-fourths of the circulation should be loaned at six per cent. only, it would amount to four and a half per cent. on the whole circulation, from which, deducting the tax of one per cent. thereon, a clear profit of three and a half per centum must be realized. Whenever a resumption of specie payments shall be brought about, very likely the

profits upon circulation may be in some degree temporarily diminished, but this is a sacrifice whenever it shall be made, which, it cannot be disputed, would not only largely promote the honor and solid prosperity of the country, but also advance their claims to public confidence and respect. The report of the Comptroller of the Currency shows that the loans of the banks have increased within the last five years over \$260,000,000, while their resources are less in United States bonds by the sum of \$9,000,000, less in lawful money by the sum of \$14,000,000, and less in specie by the sum of \$2,500,000. This discloses the painful fact that the national banking institutions have entire confidence that Congress will not soon, if ever, lead the way to a resumption of specie payments, from which we are so apparently annually and steadily receding. Even when the bank circulation shall be, if ever, regularly redeemed in coin or its equivalent, the annual tax on circulation of one per cent. will not be too much, and while it is not redeemed—the banks reaping *all* the benefits, but rendering no other equivalent—this tax may be fairly reckoned as disproportionately small.

Then the tax on deposits, the last in the series, is to be considered, and this is fixed at half of one per cent. on the average amount of such deposits. Sound banks rarely pay any interest upon deposits, and usually find it safe to loan at least two-thirds of the average amount so held, and often retain a less margin when call-loans can be made. This is really borrowing money without interest, and loaning it with interest. The sound credit of banks, based upon their franchise, their capital, and upon the national bonds given for the ultimate security of the bill-holders, enables them to realize greater profits from deposits than even from circulation. The amount received and held on deposit by banks exceeds seven hundred millions of dollars, or considerably more than the amount of their capital. It is from this source that the best part of their profits accrue, and their depositors, by the issue of their individual checks, which are received wherever known, upon an entire equality with currency, actually furnish an additional paper circulation, probably larger in amount than that authorized in the form of bank-notes. There does not appear any good reason why banks should not be required to pay, nor why the National Government should abandon such a tax. Conceding, as we cheerfully do, the immense superiority of the national banking system over that of the old heterogeneous systems of the various States, we yet must emphatically deny that they are overtaxed by the National Government. So long as the present magnitude of the wants of the Government shall continue, or so long as the present magnitude of the dividends of the banks shall continue, petitions for the removal of taxes out not to be granted.

The statement made in these petitions of the cost of conducting a national bank with a million of capital is as follows :

Salaries of officers and clerks, including a total force of twenty or twenty-five persons, say, per annum	\$45, 000
Rent, books, stationery, gas and fuel, postage, and incidental expenses of all kinds, at least	20, 000
City and county taxes for the year 1871	21, 707
Government taxes on capital	5, 000
Government taxes on deposits	10, 000
Total	<u>101, 707</u>

This shows that, in the aggregate of one hundred and one thousand seven hundred and seven dollars, the amount of the national tax is only

fifteen thousand dollars, or less than one-sixth of the whole. It is possible by a more rigid economy in the large items of expenditures here exhibited that the comparatively inconsiderable amount paid as national taxes might be saved, and it would seem to be a surer, if not better, way of obtaining relief than by any such petitions like those here presented to Congress for the removal of all taxes whatever upon banking institutions.

It is argued that the removal of national taxes from banks would cheapen or lower the rate of interest paid by those who obtain loans from banks, but it is somewhat doubtful whether or not such a removal would make any appreciable difference to the advantage of the customers of banks. Banks are by no means the sole creditors of the community, nor the sole lenders of money, and they are compelled to lend on as favorable terms as can be obtained elsewhere or their loanable funds will lie idle. Banking institutions are intended to be, and are, institutions for the accommodation of the public, but their managers do not forget that their stockholders prefer large rather than small dividends, and therefore they seek the highest legal rates of interest compatible with the full employment of their capital. They will demand about the usual market rates. The value of money in banks is not exempt from the universal law of supply and demand. Exemption from taxation would not increase the amount or diminish the demand. The rate of interest on capital available for use as money cannot be reduced except by competition, or except by increasing the amount to be loaned, or by diminishing the amount required by borrowers. Those who have money to lend, including the banks, will get the current rates for it. Though it costs the lender much or little, the price for its use will be regulated, not by the forbearance of the Government, but by the demand. It is believed by the committee, therefore, that the abandonment of national taxes upon national banks would not be so much a favor to their borrowers as to their stockholders, and the latter do not appear to be very greatly oppressed or restrained from receiving reasonable dividends.

It is not even pretended that banks and bankers are not receiving ample profits from their business; and if it had been, the returns by the Comptroller of the Currency, showing dividends averaging a fraction over ten per cent. for several years past, with a constantly increasing surplus, would have refuted the pretense. It is very clear, while national banks can loan all their capital, two-thirds of their deposits, and all of their circulation, except their reserve, that the business of banking need not be unremunerative.

The taxes sought to be repealed on the capital, deposits, and circulation of State banks and bankers yielded for the fiscal year ended June 30, 1872, \$4,628,229.14; the estimated decrease on account of deductions made by act of June 6, 1872, is \$825,000; there will remain an estimated yearly income of about \$3,800,000; to which must be added a similar tax of about six millions of dollars paid by the national banks directly to the Treasurer.

It will be seen, therefore, that the total amount which it is asked to have surrendered is nine million eight hundred thousand dollars, or nearly ten millions of dollars. This may not appear a large sum to the banks and bankers, but it is much larger than can now be well spared for any purpose from the Treasury.

These petitions also refer to the question of refunding taxes on dividends, interest, and profits earned or added to the surplus of corporations during the last five months of the year 1870, but the committee

refrain from expressing any opinion further than to say, if all the schemes for refunding taxes, levied during the hard necessities of the recent war, were to be favorably considered, fresh war-taxes would at once have to be again resorted to or the Treasury would become bankrupt.

The committee are of the opinion that no legislation is at present required on the subject of these petitions, and ask to be discharged from the further consideration of the same.

S. Rep. 453—2



This report contains a full and complete statement of the work done by the General Land Office during the year ending June 30, 1894. It is divided into two parts, the first of which contains a general statement of the work done, and the second of which contains a detailed statement of the work done in each of the several divisions of the office.

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 19, 1873.—Ordered to be printed.

Mr. PRATT submitted the following

R E P O R T :

[To accompany bill H. R. 3877.]

The Committee on Claims, to whom were referred the memorial of the Franklin Institute of Philadelphia, praying compensation to Anna Peale, on account of the benefits derived by the United States from the discoveries, inventions, and improvements in the processes and machinery used in the Mint of the United States, introduced and perfected by her father, Franklin Peale, deceased, and also the bill (H. R. 3877) for the relief of Anna E. Peale, submit the following report :

From a report made by this committee to the Senate in April, 1858, and the evidence on file, it appears that, from the year 1833 to December, 1854, Franklin Peale was employed in the United States Mint, at Philadelphia, in the various positions of assistant assayer, melter and refiner, and chief coiner. It is claimed, and is probably true, that during this long period of his connection with the operations of the mint establishments he invented and introduced valuable machinery and processes, by which great economy in labor was gained, much more work accomplished, and savings made in decrease of the wastage of the precious metals. Some of these will be noticed :

1. In the refining process for the separation of gold from silver, he originally proposed the use of a solution of salt in the place of muriatic acid, for precipitating the chloride of silver from the nitrate of silver solution.

2. The coining-presses as now used in the mints are a substitute for the old hand-worked screw-presses previously in use. Mr. Peale devised and introduced these new presses, so that for the hand we have steam for the power; for the screw we have the toggle or knee-joint. The feeding is mechanical, and the practical working of the whole apparatus is pronounced complete. It is said also that he devised the engine which furnishes the power to the presses, and that is pronounced to be a fine piece of mechanism, moving noiselessly, yet with sufficient power to move the presses, coining and milling one hundred millions a year if necessary.

3. It is also claimed that Mr. Peale devised and introduced the milling-machine for raising the edge of the coins, which is moved by steam, the former one being moved by hand.

4. A plan for feeding the coining-press faster than by the old methods became necessary by the immensely increased action of the press. The

old plan was to pile by hand the blanks or planchets to be placed in the feeding-cylinder. For this was substituted an invention of Mr. Peale called the laying or piling box, by which the planchets, thrown confusedly into the box, were, by a slight shaking, arranged into piles, and could thus be placed rapidly in the feeding-cylinder of the coining-press.

5. He also devised and introduced an improved form of scales for the weighing of coin and bullion, accurate in large and minute weighings, rapid in its indications, easily examined and kept in order.

6. It is also said that Mr. Peale introduced improvements in the rolling-mill of simple gearing, and with wheel-work and dial-plate for the regulation of the slips of rolled metal; and that he designed the large engine for moving the machinery in the rolling and cutting room, and had it executed under his superintendence.

7. The annealing furnaces in the coining department were prepared, as is said, on plans devised by Mr. Peale.

It seems that Mr. Peale's valuable services were not confined to the parent mint, but were called into requisition in fitting up the branch mints at New Orleans, Charlotte, and Dahlonega.

Numerous, ingenious, and valuable as were the inventions of Mr. Peale, it does not appear that he ever had their benefit secured to him by patent. They seem to have been made during the period of twenty years he was in the employ of the Government. Nor does it appear that he ever thought of making application to the Government for compensation for the great benefits he had conferred, until he was superseded in office. Why such a valuable officer was displaced does not appear. But in 1856 he made his first appeal to Congress, and, omitting the period of the war, he has been before Congress ever since, until his death, a few months since. His claim is now taken up and pressed by the Franklin Institute, for the benefit of his daughter.

Mr. Peale's salary, while serving the Government, seems to have been \$2,000. Of the sufficiency of this no complaint is made. The inventions and processes devised and put in operation by him were all made while he was thus in the employ of the Government and drawing a salary. But it is said this fact did not prevent Mr. Peale from patenting his inventions, and had he done so the Government could not have availed itself of his discoveries and improvements without buying his patents or appropriating them, and in either case making him compensation. This is undoubtedly true, for it is not to be gainsaid that his inventions, in case they had been patented, would have been *property* and entitled to protection under the Constitution. What, then, were his rights in his life-time; what should be done now? It is admitted that the Government owes him no debt in the usual sense; that it has made him no promise it has not performed. The claim is not put upon any such ground. But it is asked, because this modest and earnest inventor did not see proper to turn aside from his labors and protect himself as he might have done, in the exclusive benefit of his toil, is he in equity less entitled to recognition as a claimant? Or, to state it otherwise, it is said most of these inventions were useful to the Government, and the Government alone, and it must have bought them in case Mr. Peale had protected himself by patenting his inventions, and Congress should pay to his daughter now what it would have voted to extinguish his patents.

A bill for the relief of Franklin Peale, giving him \$10,000, "in full compensation for the use of all of his inventions and improvements, and for his extraordinary services in connection with the Mint of the United States and its branches," passed the Senate May 21, 1858, and again on

the 6th of April, 1860. The report of Mr. Iverson, made to the Senate on April 26, 1858, is before the committee. From this it seems that the committee on claims of the Senate as early as May 23, 1856, recommended an appropriation of \$10,000 to pay Mr. Peale.

The bill under consideration, passed in the House on the 8th of this month, gives to the daughter of the inventor this sum of \$10,000.

The committee have looked over the report of the Committee of Claims in the House, adopt it as their report, and append the same hereto, and recommend that the bill pass without amendment, and ask to be discharged from the further consideration of the petition.

The Committee of Claims, to whom was referred the petition of the Franklin Institute, of Philadelphia, in behalf of a daughter of the late Franklin Peale, having had the same under consideration, ask leave to report :

It appears from the papers submitted that Mr. Peale was, from 1833 to 1854, employed at the Mint of the United States, occupying successively the position of assistant assayer, melter and refiner, and chief coiner, all of which he filled with credit to himself and great advantage to the Government. Early in this period of service Mr. Peale visited France and England, and examined thoroughly the machinery, apparatus, and processes employed in their respective mints, and, after his return to the United States, invented and brought into practical use many valuable improvements in the machinery and processes applicable to refining and coining of the precious metals, whereby the efficiency and capacity of the Mint was greatly increased and economy promoted.

During the period of Mr. Peale's service at the Mint, branch mints were established at Charlotte, North Carolina, Dahlonega, Georgia, and New Orleans, Louisiana, the machinery for which was constructed and put in operation in a great measure under the advice or direction of Mr. Peale, although it was no part of his official duty as an officer of the principal Mint.

It is impossible for the committee to ascertain in connection with the mint machinery where the line of invention ended and that of improvement commenced, nor is it necessary.

The papers submitted abundantly prove that when Mr. Peale returned from his mission to Europe the Mint at Philadelphia, in respect to the machinery and processes employed, was inefficient and defective in many essential respects, and before he retired from service it was, in all its appointments, the most complete and efficient establishment of the kind in the world. This perfection was undoubtedly due, in a great measure, to the skill and zeal of Mr. Peale.

In all this time the highest annual salary allowed him was two thousand dollars, and not having patented any of his inventions and improvements, he never received any compensation therefor.

Among the inventions and improvements made and introduced into the Mint by Mr. Peale, are the following :

First. The use of common salt in reducing and recovering silver from its solution in nitric acid.

All gold contains silver sufficient to require it to be separated from the gold before the latter can be alloyed with copper for coinage. This operation is termed refining, or "parting." In this process it is necessary to add sufficient silver to make the mass contain, silver, two ounces to one of gold, the principle of the operation being that silver is soluble in nitric acid, while gold is not. After the silver has been dissolved or taken up by the nitric acid, it is recovered and again used in subsequent operations.

When Mr. Peale became melter and refiner, in 1836, the process then in use was that of precipitation by copper, which produced offensive fumes, so much so, indeed, that it was at times impossible for the workmen to remain in the refining-rooms without risk of life. The reduction of silver from nitric acid by precipitation with chloride of sodium, (common salt,) and its recovery by zinc and sulphuric acid, was one of the most important improvements ever introduced into the Mint. Its successful introduction by Mr. Peale attests his genius, enterprise, and high attainments.

Second. Introduction of coinage-press, to be propelled by steam-power, and construction of steam-engine.

About the time that the new refining process was successfully introduced, and while Mr. Peale was yet melter and refiner, he devised and directed the construction of a

power-press for coinage, and applied steam to its propulsion by means of an engine constructed under his own supervision, which remains to this day a model of perfection of workmanship and efficiency.

Prior to this time the machinery of the Mint was worked by hand-power, and the operations were necessarily limited, inconvenient, and expensive.

Mr. Peale continued to make improvements in the coining-press for several years afterward, until a degree of perfection was attained which made it surpass those of all other countries. They are now in use in all of the mints of the United States, models of perfection, simplicity, and efficiency. It should here be remarked that as melter and refiner it was no part of Mr. Peale's duty to plan or construct coining-machinery.

Third. Invention of the milling-machine.

While Mr. Peale was melter and refiner he invented and introduced the milling-machine, moved by steam-power, for placing the raised edge on the rim of the coin. This machine was substituted for the imperfect and inefficient hand-machine, the only one previously known in the Mint. Such is the efficiency of the machine introduced by Mr. Peale that eight hundred (800) of the smaller denominations of coin per minute do not by any means limit its capacity.

Fourth. Invention of the piling-box.

For the purpose of meeting the necessity of rapid supply to the new milling-machine, and for other purposes very important in the coinage manipulations of the precious metals, Mr. Peale invented the laying or piling box, a machine by means of which, in almost momentary time, planchets (blanks for coins) and coins may be laid in piles, affording every facility for supplying or feeding the milling-machine.

Fifth. Improvement in the annealing-furnaces.

The annealing-furnaces in use at the Mint before Mr. Peale's return from Europe were quite imperfect, and Mr. Peale erected others, of entirely original form, in their place, which proved eminently satisfactory, and continue in use in all our minting establishments.

Sixth. Designing and executing steam-engine and rolling-mill.

In order to facilitate the increasing business of the Mint, Mr. Peale, while chief coiner, designed and executed a steam-engine and rolling-mill, of peculiar construction, adapted to their specific objects. The rolling-mill being new in design, dispensing entirely with the expensive gearing usually connected with them, and furnished with wheel-work and dial-plates for the regulation of the slips of rolled metal, gives greatly increased facility as well as accuracy to this important operation. The engine has a throttle-valve of original form, devised by Mr. Peale to control its speed during the irregularities inherent in the rolling operations, a desideratum that was never before accomplished.

Seventh. Invention of apparatus for filtering and recovering the minute particles of the precious metals usually lost by floating away with the water in the various coinage manipulations.

This invention aided very materially in the reduction of the usual wastage of the precious metals, and brought the amount far within the limit allowed by law.

Mr. Peale also made improvements of much value in the drawing and cutting machines, by which space was economized, simplicity attained, and efficient operations promoted.

The value to the Government of the inventions and improvements of Mr. Peale, and for which he never received any compensation, other than a small salary, can hardly be overestimated. In the matter of refining alone it is estimated that the saving amounted to hundreds of thousands of dollars, and it is clearly apparent that without them the Mint would not have been in condition to have met successfully the extraordinary influx of bullion from California, which came so suddenly and unexpectedly on it about the time these improvements were fully perfected.

The facts in relation to these inventions, improvements, and value of Mr. Peale's services, while an officer of the Mint, are fully set forth in letters and statements of several of the most distinguished men connected with the mint service, all of whom were contemporaneous with Mr. Peale.

Mr. Patterson, who for a long time held an important position in the Mint, says: "I have had favorable opportunities of being informed in regard to Mr. Peale's services,

from knowledge derived from my father, for many years Director of the Mint, confirmed by my own observations during a service of twenty-one years in that institution. There can be no room for any difference of opinion that Mr. Peale's inventions and improvements in the separating process, in the coining-presses, and in other mechanical details were of the highest value. He gave the benefit of these improvements to the minting establishments gratuitously, although there can be no doubt that they were such as he might have secured an ownership in by patents of invention. But, as a Government officer, he declined this course, from motives greatly to his honor. I think it is but a simple act of justice that the country should render to his only child, who is without adequate means of support, a substantial recognition of services of extraordinary value, extra-official in their nature, of which the Government has had, and retains, the exclusive advantage."

Professor J. C. Booth, melter and refiner of the Mint, says: "The improvement justly claimed for Mr. Peale, of precipitating the chloride by common salt, instead of by muriatic acid, which the chemist employs on a small scale, was a positive advance in the whole process in economy of material and apparatus, and in convenience of execution. By means of this improvement I was enabled to employ wooden vessels instead of the more costly stone-ware and porcelain, when the subsequent influx of California gold assimilated our operations to those of an ordinary manufacturing establishment, and demanded precisely such an improvement. By means of this improvement I have recovered a ton of silver in a single day after its employment of refining gold."

Dr. Eckert says:

"As Director of the Mint, I had ample opportunity of becoming familiar with Mr. Peale's extraordinary inventive genius, and the facility with which he overcame and surmounted all the mechanical difficulties as they would present themselves in the practical application of his inventions and improvements. In the substitution of steam instead of hand power to the coining-presses, he has saved thousands upon thousands to the Government, and it is but just that he should receive some compensation, especially as he has never availed himself of the patent laws."

The late Judge Kane, who was for a series of years chairman of the commission for the annual examination of the coinage, affirmed—

"That Mr. Peale's improvement in the machinery alone, not to speak of the processes which he introduced, saved the Government hundreds of thousands of dollars."

The late George Eckfeldt, who was for a long time foreman of the machine-shop of the Mint and die-sinking, and a machinist of great skill, states—

"That Mr. Peale, while he held the office of melter and refiner, drew the plans and directed the construction of the first press used in the Mint for coinage by steam; for the engine employed in propelling the coining and milling machines, and laying and piling boxes, all original inventions, and directed the construction of the machinery for the branch mints generally."

George T. Dunning, late superintendent of the United States Assay Office, New York, and formerly and for many years connected with the Philadelphia Mint; Edward C. Dale, former treasurer of the Mint; and Dr. Jonas R. McClintock, who succeeded Mr. Peale as melter and refiner, when, 1839, the latter was transferred to the chief coiner, all confirm the estimate in which Mr. Peale's inventions and improvements were held by the officials whose statements are herein presented.

Dr. Linderman, late Director of the Mint, and who is generally regarded as a standard authority in mint and coinage matters, says:

"I became connected with the Mint in 1853, when it had attained a high state of efficiency. Its official corps embraced men of capacity, experience, and distinction, among whom were Franklin Peale, Jacob Eckfeldt, James C. Booth, William E. DuBois, and Robert Patterson. Colonel Snowden had recently assumed the directorship, which position he filled for several years with distinction. For nearly two years I spent all my leisure time in carefully reading all the Mint correspondence, from its organization in 1792-3 down to 1853. The information derived from that reliable source, and my subsequent experience as Director of the Mint and in inspecting the mints of other countries, enables me to form a tolerably correct estimate of the valuable services, inventions, and improvements of the late Mr. Peale. The Mint in 1835 was, in all its operative departments, defectively organized, and its capacity probably not equal to the refining and coinage of ten millions of dollars per annum. Most of the mechanical operations of coinage were then performed by hand. The processes in the refinery were imperfect, disagreeable, and injurious to the health of the workmen, and there were other defects which it is unnecessary to specify. In the next ten years all this was transformed, and the Mint became a model of perfection and efficacy, and so largely had its capacity been increased that when, soon afterward, the influx of gold from California took place, more than \$60,000,000 were conveniently manipulated in a single year. Although Mr. Peale undoubtedly received the co-operation of the then distinguished Director, R. M. Patterson, and other able men engaged in the mint service at that time, the inventions and improvements were peculiarly Mr. Peale's. I have no doubt whatever on this point. They were of almost incalculable value to the public

service; and now that he has gone from among us a suitable recognition should be made by the Government and a moderate appropriation given to his only child.

"I should mention that before my recent visit to the mints of London, Paris, and Brussels, it had been intimated to me that our coining-presses were but imitations of those of Thonnolier and Uhlon; but when I came to examine those presses I could recognize but little likeness to the American coining-press, the latter being in many respects more perfect, simple, effective, and rapid in operation. I consider them decidedly superior to the foreign presses mentioned, and this view is, so far as I can learn, sustained by others who have had opportunities to compare them. In other particulars our coining machinery is superior to those of the mints referred to, and this superiority is, I think, to be fairly ascribed to the genius, zeal, and untiring industry of the late Mr. Peale."

The committee do not deem it necessary to refer in detail to the value of the inventions and improvements made and introduced by Mr. Peale while engaged as an officer of the Mint. They are aware that, as an officer of the Government, he was bound to bring to its service the best energies of his mind; but they think that, as melter and refiner of the Mint, the construction of coining-presses and other machinery was clearly extra-official, and that suitable compensation should have been made therefor. This view was entertained by the Committee on Claims in the Senate; Mr. Wade, from that committee, having, in 1856, reported in favor of allowing Mr. Peale one-third of the amount, \$30,000, claimed by him for his inventions. A bill appropriating \$10,000 for his relief passed the Senate in 1856, and again in 1858, but in each instance failed to receive action in the House of Representatives for want of time, as the committee are informed.

In view of the facts presented the committee recommend an appropriation of \$10,000 to be paid to Anna Peale, only child of Franklin Peale, as a full recognition of and discharge for the inventions and improvements of her father while he was employed as an officer of the Mint, and for that purpose report the accompanying bill and recommend its passage.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 20, 1873.—Ordered to be printed.

Mr. LOGAN submitted the following

REPORT:

[To accompany bill H. R. 2484.]

This is an application of Elizabeth Zluhan, widow of Jonathan Zluhan, late private Company K, Ninety-third Regiment Pennsylvania Volunteers, for commutation money allowed her late husband in lieu of artificial arm.

Documentary evidence accompanying the petition sustains the facts set forth in the preamble of the bill.

The passage of the bill is recommended by the committee.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 20, 1873.—Ordered to be printed.

Mr. LOGAN submitted the following

REPORT:

[To accompany bill H. R. 2480.]

This is an application of John Tuell, father of Daniel Tuell, late private Company D, Fourth Pennsylvania Cavalry, for pension; which was rejected at the Pension-Office, because proof of father's dependence on son for support was deemed insufficient.

Daniel Tuell enlisted August 26, 1861. Was taken prisoner October 12, 1863. Died in Andersonville prison, Georgia, May 16, 1864, as shown by statement from Adjutant-General's Office.

Proof of the following facts accompany the application:

That the soldier left no widow or minor child; that the applicant is father of deceased; that the mother died November, 1854; that the father is poor, in feeble health, is permanently disabled at least one-half for manual labor; that he has no means of support except his own labor; that the son, at the time of and previous to his enlistment, worked with and assisted in his father's support. That the father had five sons in the Army.

The committee recommend the passage of the bill in this case.

1874

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Senate documents

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